

ESTTA Tracking number: **ESTTA1114333**

Filing date: **02/13/2021**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92025859
Party	Plaintiff Empresa Cubana Del Tabaco d.b.a Cubatabaco
Correspondence Address	MICHAEL R. KRINSKY RABINOWITZ BOUDIN STANDARD KRINSKY & LIEBERMAN PC 14 WALL ST, STE 3002 NEW YORK, NY 10005 UNITED STATES Primary Email: mkrinsky@rbskl.com Secondary Email(s): dgoldstein@rbskl.com, lfrank@rbskl.com 212-254-1111
Submission	Testimony For Plaintiff
Filer's Name	Lindsey Frank
Filer's email	lfrank@rbskl.com, mkrinsky@rbskl.com, dgoldstein@rbskl.com
Signature	/Lindsey Frank/
Date	02/13/2021
Attachments	Dkt 111-115 SJ P.Ex. 7.pdf(285272 bytes) Dkt 111-115 SJ P.Ex. 8.pdf(286568 bytes) Dkt 111-115 SJ P.Ex. 10.pdf(286009 bytes) Dkt 111-115 SJ P.Ex. 16.pdf(291845 bytes) Dkt 111-115 SJ P.Ex. 17.pdf(288482 bytes) Dkt 111-115 SJ P.Ex. 18.pdf(286626 bytes) Dkt 111-115 SJ P.Ex. 22.pdf(287414 bytes) Dkt 111-115 SJ P.Ex. 24.pdf(285644 bytes) Dkt 111-115 SJ P.Ex. 26.pdf(293870 bytes) Dkt 111-115 SJ P.Ex. 27.pdf(287573 bytes) Dkt 111-115 SJ P.Ex. 28.pdf(286263 bytes) Dkt 111-115 SJ P.Ex. 29.pdf(291563 bytes) Dkt 111-115 SJ P.Ex. 30.pdf(286938 bytes) Dkt 111-115 SJ P.Ex. 31.pdf(285381 bytes) Dkt 111-115 SJ P.Ex. 34.pdf(1622368 bytes) Dkt 111-115 SJ P.Ex. 35.pdf(285614 bytes) Dkt 111-115 SJ P.Ex. 36.pdf(5574755 bytes) Dkt 111-115 SJ P.Ex. 37.pdf(1800291 bytes) Dkt 111-115 SJ P.Ex. 39.pdf(287726 bytes) Dkt 111-115 SJ P.Ex. 40.pdf(287534 bytes) Dkt 111-115 SJ P.Ex. 41.pdf(285609 bytes) Dkt 111-115 SJ P.Ex. 56.pdf(2956463 bytes) Dkt 111-115 SJ P.Ex. 59.pdf(285770 bytes) Dkt 111-115 SJ P.Ex. 60.pdf(285847 bytes) Dkt 111-115 SJ P.Ex. 63.pdf(285165 bytes) Dkt 111-115 SJ P.Ex. 65.pdf(285165 bytes) Dkt 111-115 SJ P.Ex. 66.pdf(448113 bytes) Dkt 111-115 SJ P.Ex. 67.pdf(2331004 bytes) Dkt 111-115 SJ P.Ex. 68.pdf(285162 bytes) Dkt 111-115 SJ P.Ex. 69.pdf(286383 bytes) Dkt 111-115 SJ P.Ex. 71.pdf(285166 bytes) Dkt 111-115 SJ P.Ex. 72.pdf(285170 bytes) Dkt 111-115 SJ P.Ex. 73.pdf(285431 bytes)

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 7)

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 8)

REDACTED

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 10)

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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For the mark COHIBA
Date registered: February 17, 1981

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
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v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 16)

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

Cancellation No. 92025859

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 17)

REDACTED

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

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For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 18)

REDACTED

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 22)

REDACTED

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
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v.	:
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GENERAL CIGAR CO., INC.	:
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Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 24)

REDACTED

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REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 26)

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In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

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Cancellation No. 92025859

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
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v.	:
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GENERAL CIGAR CO., INC.	:
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Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 27)

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
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v.	:
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GENERAL CIGAR CO., INC.	:
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Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 28)

REDACTED

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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In the matter of Trademark Registration No. 1147309
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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
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v.	:
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GENERAL CIGAR CO., INC.	:
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Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 29)

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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In the matter of Trademark Registration No. 1147309
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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
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Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 30)

REDACTED

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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CUBATABACO,	:
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Petitioner,	:
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GENERAL CIGAR CO., INC.	:
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Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 31)

REDACTED

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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In the matter of Trademark Registration No. 1147309
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CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
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Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 34)

OCTOBER 1997

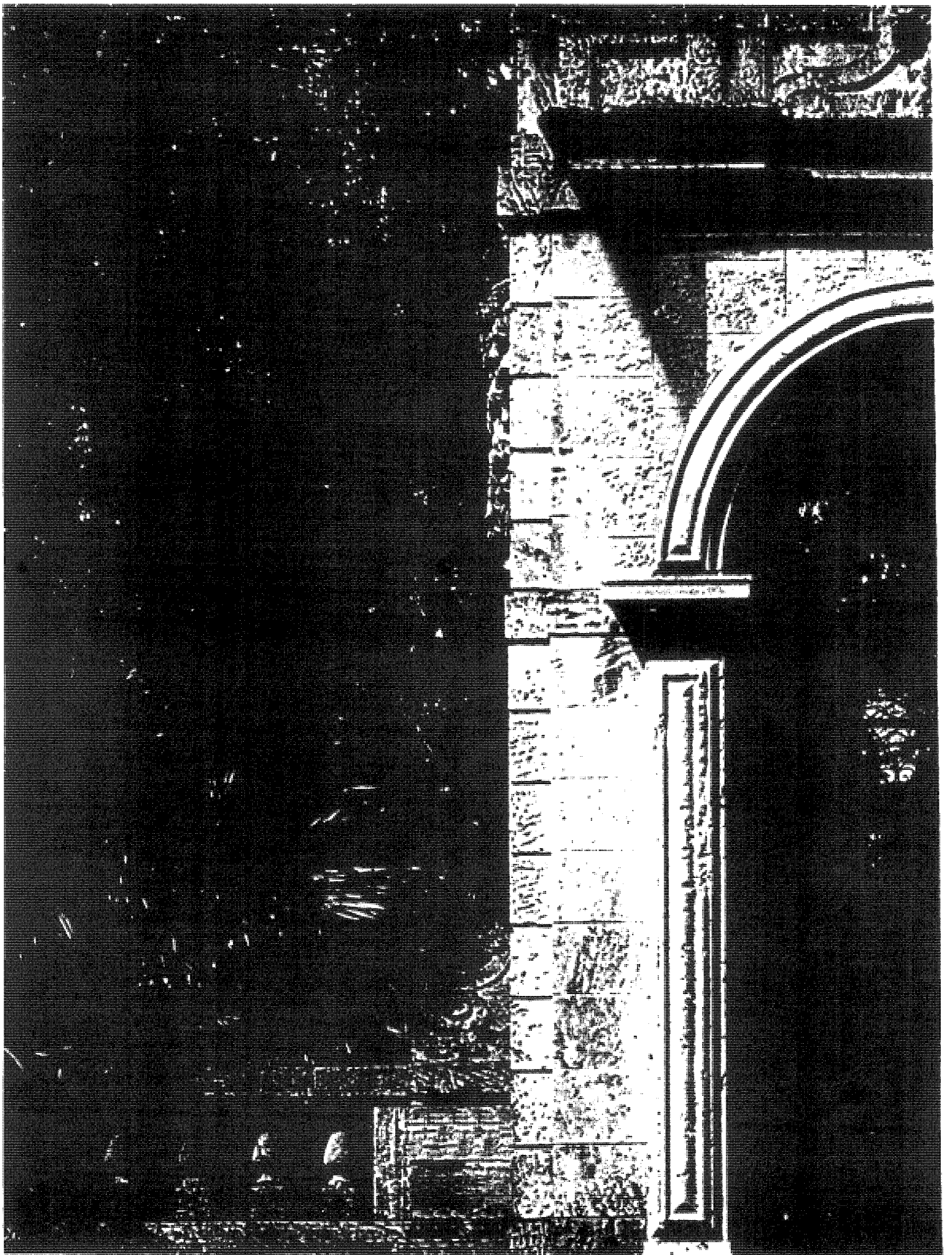
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CIGAR

Michael Richards
Seinfeld's Lovable
KRAMER

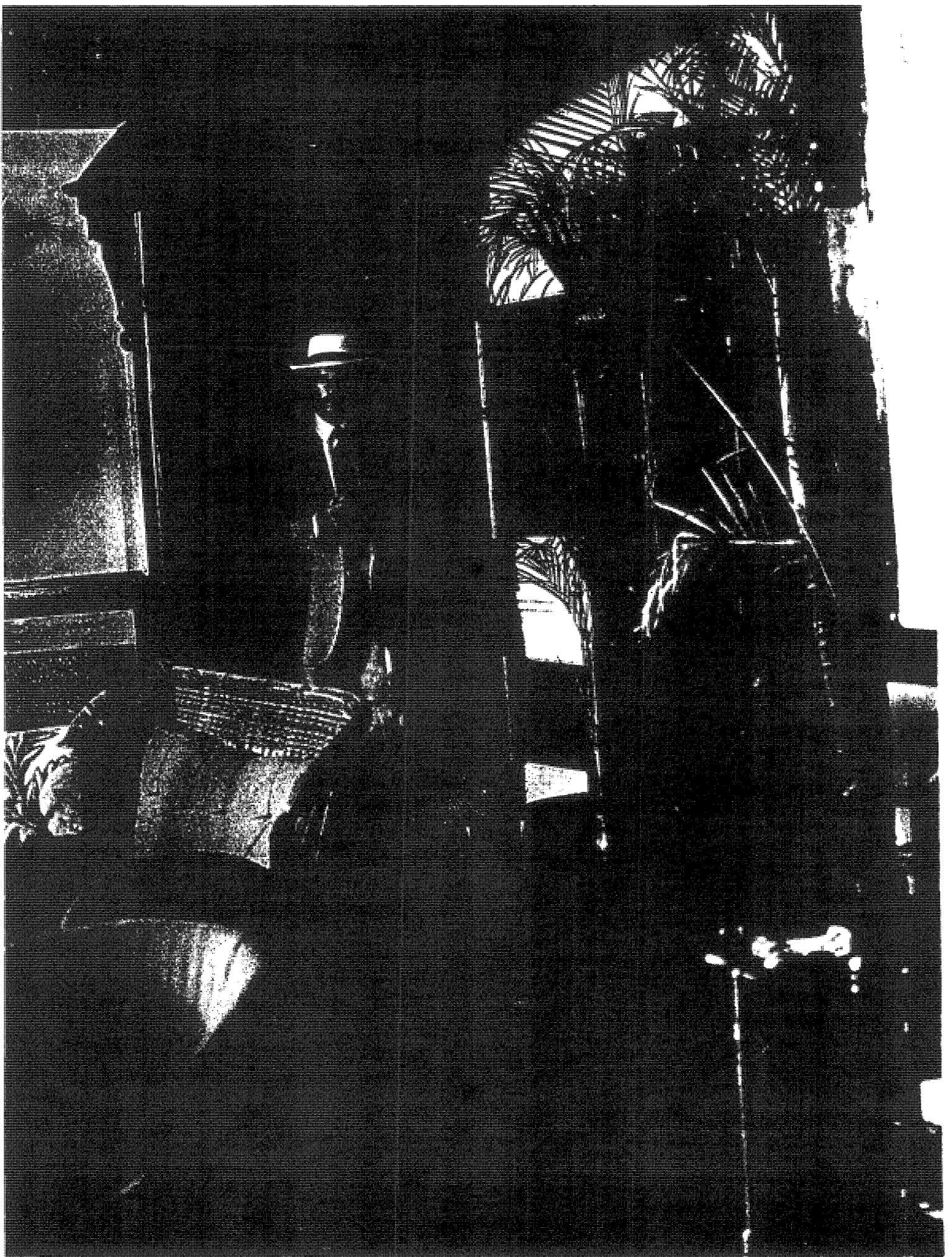
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103 Double Corona
Che Guevara
Flying the Cone

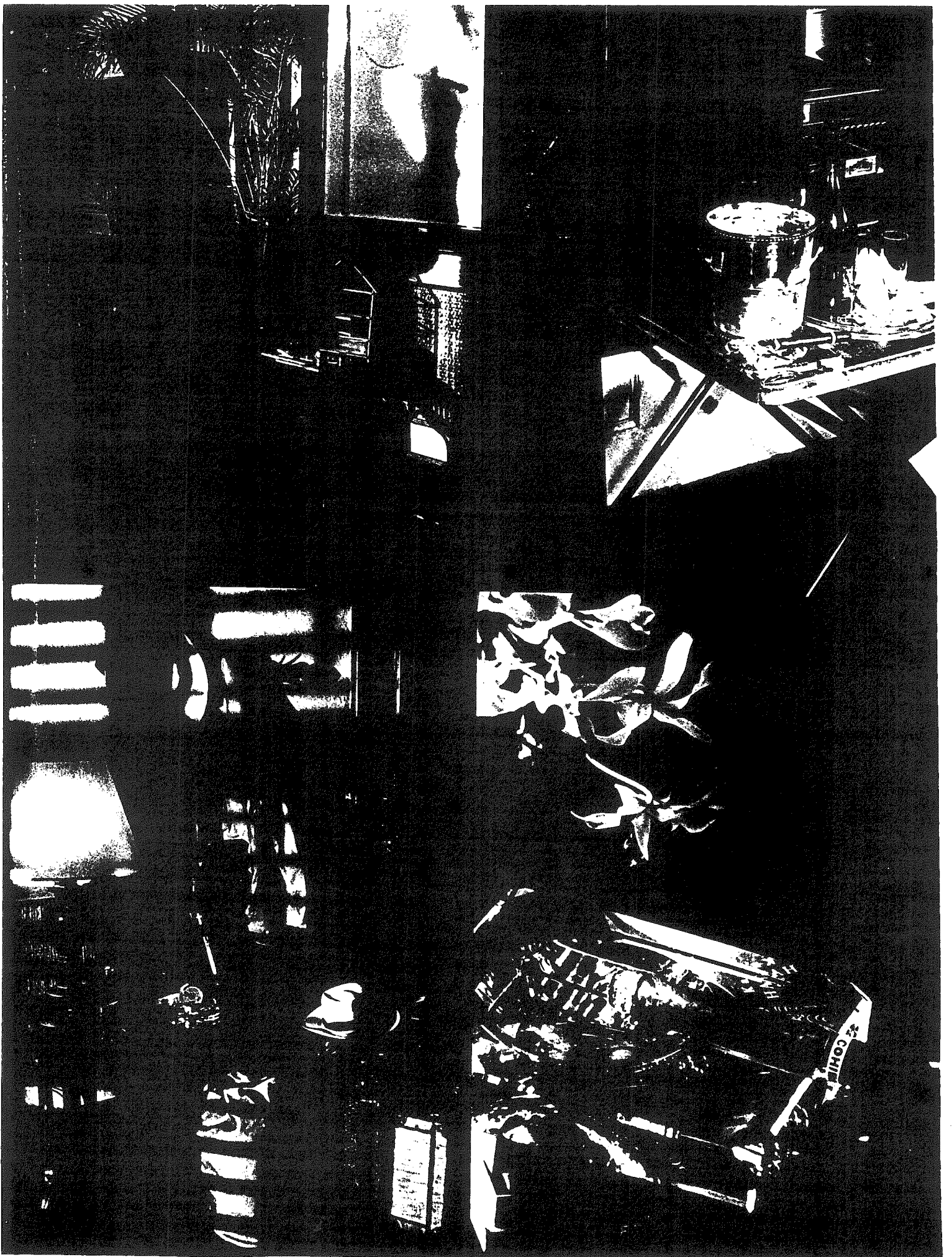




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Past and present come together in Cohiba®.

The image is one of another time and place.

The spirit is one of here and now.

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Cohiba cigars

History: manufactured by Diaz y Cia since 1978

Years in development of new blend: 6

Nature of blend: 3 varieties of Cuban seed

Wrapper: grown in Cameroon, West Africa

Binder: Jember

Characteristics: rich yet not harsh

Origin: Santiago, Dominican Republic

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shape chart, call 1-888-622-6836 or visit us on-line
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Cigars

Accessories

Apparel

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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
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Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 35)

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GENERAL CIGAR CO., INC.	:
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Respondent.	:
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Filings: Dkt 111-115 (SJ P.Ex. 36)

PREMIER ISSUE

VOL. 1 No. 1

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DEPOSITION
EXHIBIT

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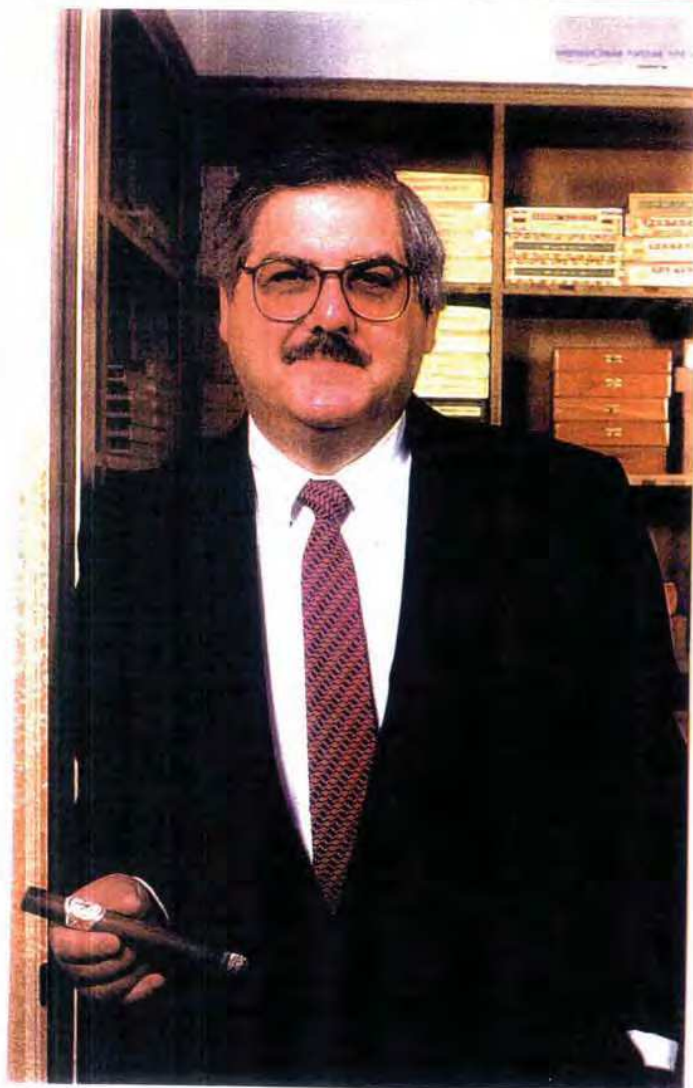
GAY TALESE ON
STREETWALKING

CIGAR-FRIENDLY
RESTAURANTS

JFK'S CUBA
CONNECTION

- TASTING ROBUSTOS
- GREGORY HINES
- 1492, THE MOVIE
- COLLECTING LALIQUE
- CUBA'S BEST CIGAR
- AND MUCH, MUCH MORE





A NEW MEN'S LIFESTYLE MAGAZINE

To launch a new magazine in 1992 calls for a stiff drink and a fine cigar.

I must confess at the outset, however, that the force inside me is so strong that I have abandoned conventional business wisdom. I acted solely on my publishing instinct, and the passion I hold for the subject of this new publication.

I've dreamed for more than a decade about creating a magazine for cigar lovers. But it was during a visit to Cuba in the fall of 1991, while "on assignment" to write a cover story for *The Wine Spectator*, that I realized I could wait no longer. I decided then and there to make the dream a reality.

The response to CIGAR AFICIONADO to date has been extraordinary. I had never realized that cigar lovers were so starved for information. Inside this magazine, you'll discover new facts and secrets about cigars: how they're made, who makes them and which brands are the best. In each issue we'll also report on our editors' blind taste tests which will rate cigars from around the world based on their quality.

CIGAR AFICIONADO is about taste. But it is not limited to the taste of a great smoke. This magazine intends to awaken and explore many of the pleasures that drive successful men.

Men like you want to know about great resorts for special vacations, as well as the world's best restaurants where fine food and wines are matched with well-stocked humidors. You want to understand men's drinks—Cognac, Scotch, vintage Port and fine wine. Here, you will find insights into these potions of pleasure, as well as specific recommendations unlike those found in any other magazine.

CIGAR AFICIONADO will also explore collectibles, unique trips, emerging hobbies, gambling, fashion and new ideas, in a style different, we believe, from any other men's magazine. Our editors will travel the world, making every effort possible to turn you on.

CIGAR AFICIONADO may not be for every man. But we do dream about creating a very special magazine for the individual who wants the very most out of life. If you share that desire, welcome. This magazine is for you.

Very truly yours,

Marvin R. Shanken
Editor and Publisher



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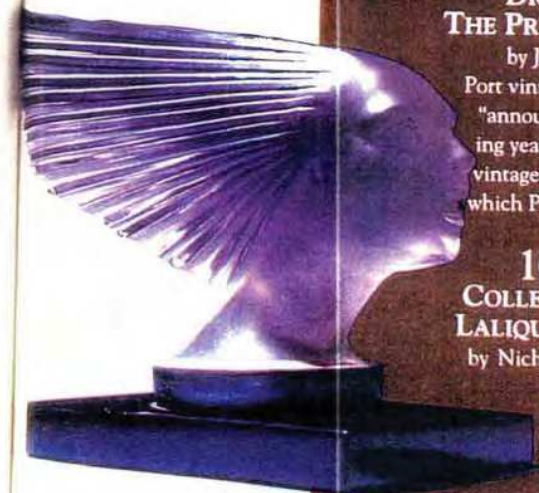
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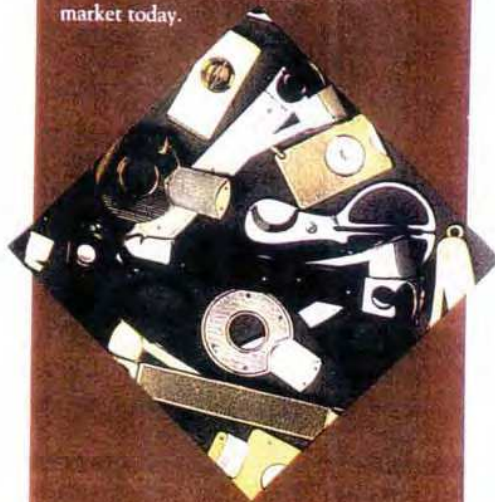
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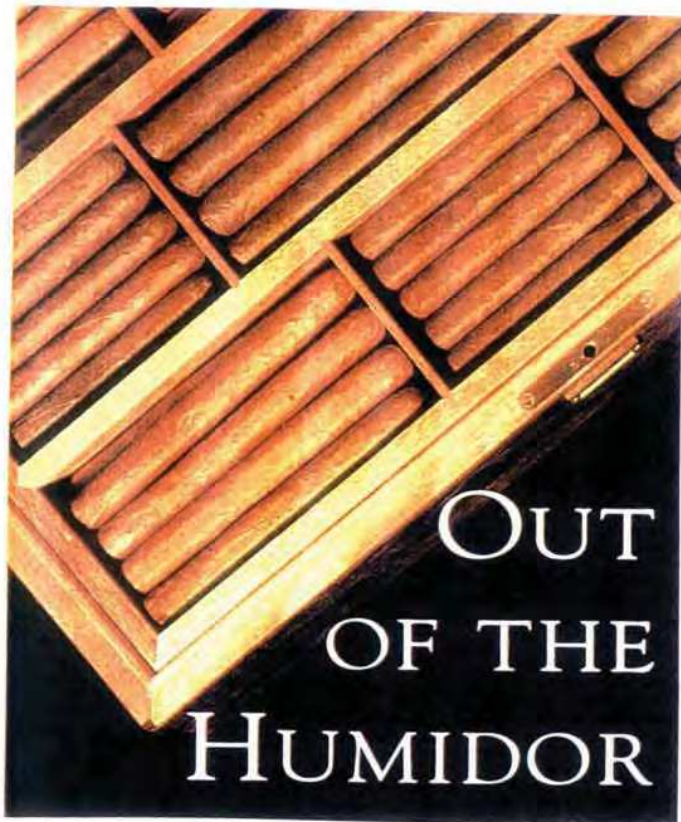
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The inside story on Salinger's tobacco connection with President John F. Kennedy, the Cuban trade embargo and Cuban cigars.

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DAN WAGNER



OUT OF THE HUMIDOR

Talk about people seizing an opportunity.

That's the best reason we can come up with for our mailbox overflowing with letters and faxes since we announced the coming of CIGAR AFICIONADO nine months ago. We've been literally flooded with mail from cigar lovers. It seems that people have some pent-up desire to express their feelings about cigars, anti-cigar fanatics and just about everything else, including our new magazine.

CIGAR AFICIONADO had always planned a Letters to the Editor page. But we had no idea the response would be so overwhelming. So, this is really more than a letters page. It's a forum. It's a place where you, the reader of CIGAR AFICIONADO, can talk about the subjects that matter most to you.

So, keep the cards, faxes and letters coming. Send them to me at CIGAR AFICIONADO, 387 Park Ave. South, 8th Floor, New York, New York, 10016, or fax (212)684-5374. In the next few pages, you'll see a small sample of what people had on their minds.

Here's to Happy Smoking,

Marvin R. Shanken
Editor & Publisher

Nov. 3, 1991

Dear Marvin:

Please include my husband, Mark Bivins, on your mailing list for the first issue of your forthcoming publication for cigar lovers. I know he will want to subscribe.

Thank you,
Ellen Bivins
Amarillo, Texas

Editor's Response: Thanks Ellen. I only wish there were more wives out there like you.

March 8, 1992

Dear Marvin:

One of the simple pleasures in life for a gentleman is fine cigars and somehow this has been lost in America. I applaud your efforts to publish a magazine devoted to the cigar. It needs a comeback and your magazine should be a great help.

Sincerely,
W.C. Thompson
Salisbury, North Carolina

Nov. 22, 1991

Dear Marvin:

I am one of the unfortunates whose wife won't let him smoke cigars at home (unless I'm outside, at least 50 feet from the house).

I have just one request—could you put a Field and Stream cover on it?

Sincerely,
Doug Grissom
Arlington, Texas

Editor's Response: Your wife shouldn't mind your CIGAR AFICIONADO at home, after all.

it does not contain smelly perfume ads like many of the women's magazines she probably subscribes to.

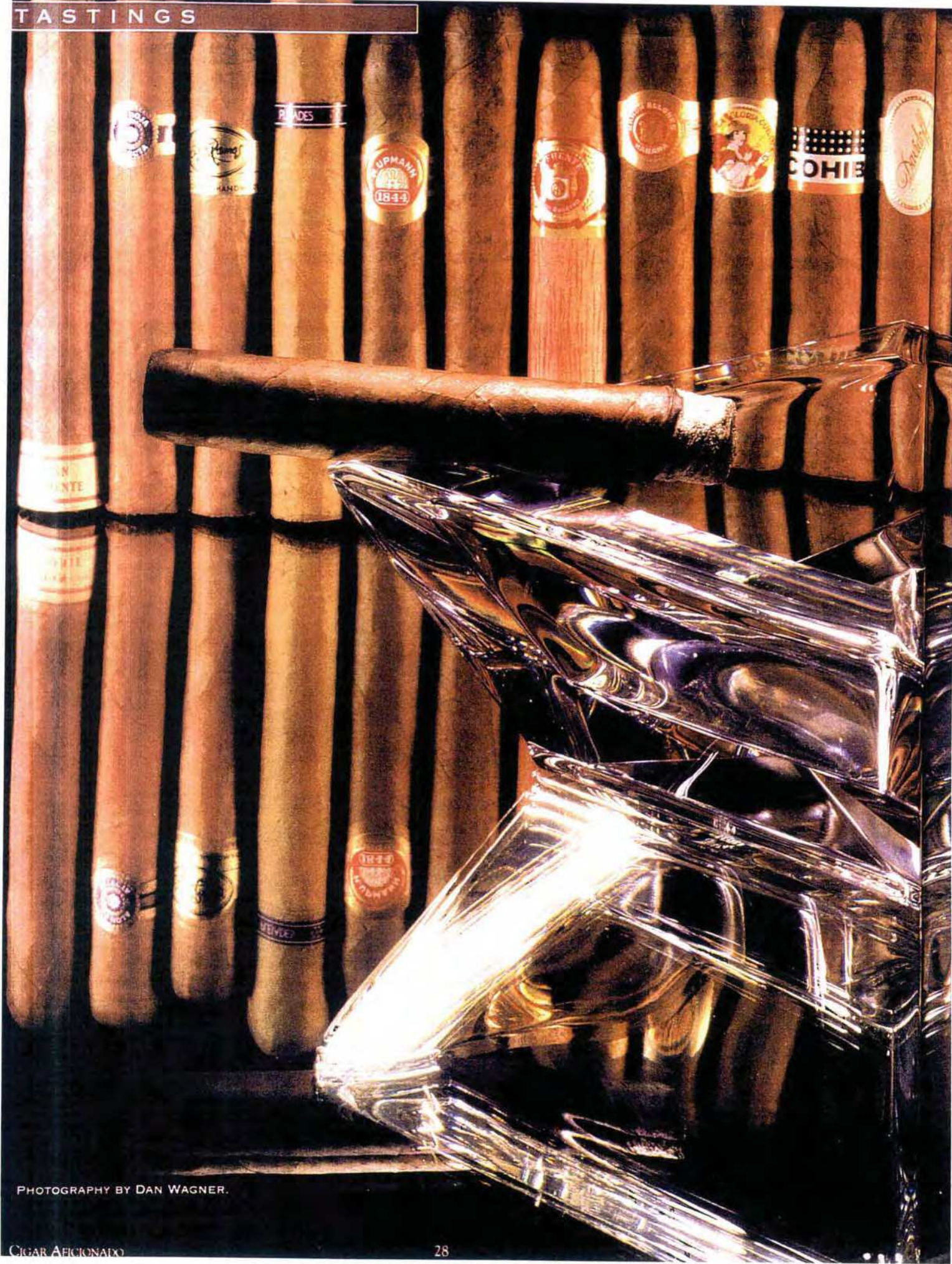
April 12, 1992

Dear Marvin:

There are, as you most probably know, various subtle and not-so-subtle ways of getting Havana cigars here in the U.S. I hope your new magazine never investigates this; it will ruin it for the rest of us who maneuver to the best of our abilities to keep ourselves content.

Until not long ago, there was a store in Moscow called "Gavana," where Cuba's best was on sale, for rubles. When I found myself writing a movie in Moscow in late 1989, my producer, a devout cigar smoker who knows Cohiba is the best in the world (and there's no point in debating this), told me where to find the shop.

I arrived to find an empty storefront and an even emptier interior. A white-coated elderly woman sat collapsed in a chair behind the bare counter. When I asked her whether there were any cigars available, she muttered something about coming back the following day. The next morning I arrived to find 300 people cramming the shop, and spilling outside. Elbowing my way in, I found one self-appointed fellow giving out numbers—a familiar Soviet (now Russian) way of maintaining order. I tried to ask him what the drill was, and as I sought an answer, 15 people signed up. So I stopped the politeness, got myself a num-



PHOTOGRAPHY BY DAN WAGNER.

ROBUSTOS

HOT CIGAR OF THE 90'S

The robusto/Rothschild size cigar was selected for the premier tasting in CIGAR AFICIONADO for a very simple reason. It's the fastest selling size in tobacco shops around the world. This short, stout cigar offers the benefits of a longer, thicker cigar, that is, big flavor and cool smoke. But this size can be enjoyed in a relatively short period of time, usually 25 to 35 minutes. It's been dubbed the perfect "power lunch smoke."

As with almost all cigars, it is difficult to arrive at a generally accepted standard for a particular size. We chose robusto cigars with a 49 or 50 ring gauge, and about five inches long, give or take a half-inch. For the purposes of the blind tasting, that standard was rigorously applied. We did not want to shorten a cigar so that it might fit in anonymously with the group, or include one that could be easily picked out. We also eliminated cigars that are often called robustos but they have a 48 or smaller ring gauge.

The tasting is not meant to be all-inclusive; brands had to be widely available at retail tobacco stores. All cigars were purchased at retail outlets. We ensured that all cigars were in good condition and properly humidified. **All cigars were tasted blind.** The panel of tasters included four members of the CIGAR AFICIONADO editorial staff.

For the most part, robustos emphasize flavor. The thick ring gauge provides the same ratio of leaves to surface area as in larger cigars with a 50 ring gauge, thus providing the extra flavor. Despite its shorter length, a robusto still manages to maintain most of the coolness of a longer smoke. At the same time, robustos deliver a relatively high value. Because the proportions are right and the smoke doesn't get too hot, people tend to smoke them more than halfway down. You'll find yourself pushing the band further and further back to smoke a bit more of the cigar.

Whatever your pleasure in a cigar, CIGAR AFICIONADO found excellent cigars among the 23 tasted. For instance, the Cohiba Robusto emphasizes the rich, coffee flavors and finesse of this revered Cuban brand, while the A. Fuente Chateau Rothschild accentuates the delicate, elegant style of Fuente's Dominican Republic tobacco.

There's even quality at the lower end of the price scale: La Gloria Cubana makes a rich robusto, called a Wavell, in its Miami factory with plenty of attractive coffee and spice character, and at an almost ridiculously low price of about \$1.50. Thanks to the category's growing popularity, there are some recent additions to the category: Dunhill Romanas, Davidoff Special R and Macanudo Hyde Park Cafe, all from the Dominican Republic.

Regardless of which cigar brand you choose to smoke, robustos are clearly the "hot" cigars for the 90's. They also give new meaning to the old saying, "good things come in small packages." ♦

CIGAR AFICIONADO's 100-point scale:
 95-100 — classic
 90-94 — outstanding
 80-89 — very good to excellent
 70-79 — average to good commercial quality
 Below 70 — don't waste your money
 N/A = NOT AVAILABLE

ROBUSTO BLIND TASTING

	COHIBA ROBUSTO RING GAUGE: 50 LENGTH: 5" FILLER - CUBA BINDER - CUBA WRAPPER - CUBA	CUBA	What more can we say about the cigar that put this size on the map? The Cohiba Robusto is mouth-filling with rich coffee, spicy flavors and an impressively long finish. A great business lunch cigar! U.S. - N/A U.K. - £8.80	96
	FLOR DE CANO SHORT CHURCHILL RING GAUGE: 50 LENGTH: 5" FILLER - CUBA BINDER - CUBA WRAPPER - CUBA	CUBA	This is a real insider's cigar. Regardless of their size, Flor de Canos seem to always need a year or two of box age to come into their own, and when they are right, they are great. This is a classy smoke with fine spicy aromas and flavors. A dream to smoke. U.S. - N/A U.K. - £5.61	96
	BOLIVAR ROYAL CORONAS RING GAUGE: 50 LENGTH: 5" FILLER - CUBA BINDER - CUBA WRAPPER - CUBA	CUBA	This is an earthy, rich cigar with a lovely brown wrapper and dense, spicy aromas. The flavors are opulent yet mellow with a clean finish. U.S. - N/A U.K. - £5.50	93
	PARTAGAS SERIES D RING GAUGE: 50 LENGTH: 5" FILLER - CUBA BINDER - CUBA WRAPPER - CUBA	CUBA	The Series D is always a very good smoke. It is a quick blast of flavor in a full-bodied style. Some bitterness on the aftertaste; may not be everyone's smoke but it is well-constructed with an ultra-even draw. U.S. - N/A U.K. - £6.12	89
	HOYA DE MONTERREY EPICURE NO. 2 RING GAUGE: 50 LENGTH: 5" FILLER - CUBA BINDER - CUBA WRAPPER - CUBA	CUBA	One of the most popular cigars in Europe, the Epicure No. 2 is the perfect entry cigar into this category. It is a thoroughly harmonious cigar with fine creamy aromas and delicate flavors. A joy to smoke anytime. U.S. - N/A U.K. - £5.88	88
	RAMON ALLONES SPECIALLY SELECTED RING GAUGE: 50 LENGTH: 5" FILLER - CUBA BINDER - CUBA WRAPPER - CUBA	CUBA	A straightforward, easy smoke with plenty of flavor. This cigar shows delicious light creamy, coffee flavors and a powerful finish. Try it after a big lunch or dinner. U.S. - N/A U.K. - £5.52	87
	DAVIDOFF "SPECIAL R" RING GAUGE: 50 LENGTH: 5" FILLER - DOMINICAN REPUBLIC BINDER - DOMINICAN REPUBLIC WRAPPER - U.S.A./CONNECTICUT SHADE	DOM. REP.	The R looks so rich and delicious that it seems a shame to smoke, but you must. It shows complex aromas and flavors with lots of nutty, coffee character and a silky texture. This shows breeding. U.S. - \$7.50 U.K. - £8	91

COHIBA CIGAR DIVAN



THE LOBBY
THE MANDARIN ORIENTAL HOTEL
HONG KONG



COHIBA

The first name
in cigars

 **Habanos**
Unique since 1492

THE LEGEND OF COHIBA

CIGAR LOVERS EVERYWHERE DREAM OF CUBA'S FINEST CIGAR

by James Suckling

It might have been a scene out of Bizet's *Carmen*. Dozens of women sat in rows of brown, oily, wooden desks in small, dark, musty rooms in the El Laguito factory on the outskirts of Havana. They were rolling what are considered Cuba's finest cigars, but instead of constructing them on their thighs and singing Spanish folk songs, the women were intently crafting the cigars on top of their desks and quietly listening to a news program on state sponsored radio.

Here in El Laguito, the former private home of the Prince of Pinar del Rio, only women roll the cigars which have graced the most esteemed humidors in the world. Cohiba is legendary to most cigar aficionados, and for more than two decades, it has been one of the government's most prestigious gifts to honor foreign dignitaries. From King Juan Carlos of Spain and the Queen of England to Russia's Boris Yeltsin and Iraq's Saddam Hussein, they all have appreciated the rich character and finesse of a Cohiba.

Named after what the ancient Taino Indians of Cuba called tobacco, Cohiba represents some of the best cigars available on the market. Lighting up a Cohiba such as an Esplendido or Robusto is a great experience. They are gloriously rich with aromas and flavors of chocolate and coffee, yet they remain incredibly elegant to smoke. To a cigar lover, smoking a Cohiba is a moment to savor. It gives the same kind of satisfaction as a wonderful glass of Château Lafite-Rothschild does to a wine lover or a superb main course at a Michelin three-star restaurant does to a gourmet.

Although it has been years since Fidel Castro smoked cigars, Cohiba captures a special place in the heart of Cuba's president. It is like a lost love, according to one confidant of the premier, who said that Castro still dreams of smoking a Cohiba. No wonder Castro once said that giving up cigars "may have been one of his greatest sacrifices to the revolution." Insiders at the El Laguito factory said that less than a decade ago a Cohiba Panetela or Lancero was as much a part of his everyday attire as his famous green mili-

tary fatigues. "He used to chain smoke Cohibas," said one of the former private cigar rollers of Castro. "Fidel loved smoking Cohiba."

Castro gave up smoking about eight years ago as a gesture to his nation to curb its voracious appetite for cigars and cigarettes. Last year, the Cuban nation of about 10 million people smoked nearly 260 million cigars. Although most are not cigar connoisseurs, ask a Cuban what is the best *tabaco* made in his country and he will inevitably answer Cohiba.

Avelino Lara, 71, the creator of Cohiba and current head of El Laguito, said that he never received a formal request from Fidel to produce the cigar. "I received an order from Cubatabaco, the marketing arm for Cuban cigars," said Lara, puffing away on a Cohiba Lancero in his office in El Laguito. "The head of Cubatabaco asked me to create a new blend which was different from all the other brands. It had to be the very best ... the selection of the selection."

Although Lara created the Cohiba in 1968, only a few thousand boxes a year were given away as diplomatic gifts. Then, in 1982, what was once considered the smoke of world leaders became the cigar of the world cognoscenti. Today, its unique bright yellow, white and black band has become a symbol of success in much of the world. Cuba may not embrace the ways of capitalism, but her Cohiba cigars are clearly symbols of financial success. Actors such as Tom Cruise and Arnold Schwarzenegger have standing orders with London and Geneva cigar merchants for Cohiba while business magnates such as Lee Iaccoca have been known to light up Cohibas after a successful deal.

You certainly have to be fairly well off to buy the six cigars in the Cohiba range. The least expensive Cohiba, the four and one-half inch-long 26 ring gauge Panetela, costs about £4.80 (\$8.90) in London while the similarly small Exquisito, five inch by 36 ring gauge, is about £6.60 (\$12.20). Prices quickly increase to about £9.40 (\$17.40) and £11.80 (\$21.80) for the elegantly thin Coronas



AVELINO LARA, THE HEAD
OF THE EL LAGUITO FACTO-
RY, EXAMINES A FERMENTA-
TION BARREL FILLED WITH
TOBACCO DESTINED FOR
COHIBA CIGARS.
PHOTO BY JON WYAND.

CIGAR AFICIONADO



A SORTER SEPARATES FRESHLY MADE COHIBA CIGARS BY COLOR OF THE OUTER WRAPPER LEAF. PHOTO BY JAMES SUCKLING

Especial and Lanceros, both 38 ring gauge by six and seven and one-half inches long, respectively. The thick Robusto at 50 ring gauge and five inches long goes for £8.80 (\$16.30) while the longer Churchill-sized Esplendido carries a price of £13 (\$24).

"The pricing is totally correct," said Lara, whose monthly salary may only cover the U.K. retail price of a box of 25 Lanceros. Luckily for him, he has an unlimited personal supply. "I buy the best quality tobacco for Cohiba, and the tobacco I select may cost three times the price per ton than other tobacco. It takes three

years for the cigar to be produced and sold. Cohiba is the best cigar in the world. So, it has to be expensive."

The tobacco for Cohiba, like nearly all other premium Cuban cigar brands, comes from the heart of the Vuelta Abajo, about 100 miles southwest of Havana. Lara makes dozens of trips a year to this lush region of deep, red-brown soil and drooping green palm trees. He visits *vegas* or plantations near the towns of San Juan y Martinez and San Luis to select the best tobacco. Selection begins during the harvest in February when the first silky green leaves of the tobacco plants are picked and continues through the various steps of production.

"There are only two people in Cuba that know the names of the *vegas* used for Cohiba," said Lara, playfully drawing on his Lanceros with a satisfied grin. "It is a great secret. Only myself and Francisco Torano of the Ministry of Agriculture know."

He said that the ten *vegas* used for Cohiba comprise about 700 acres, a tiny percentage of the roughly 98,800 acres planted to tobacco for last year's harvest in the Pinar del Rio district. Lara did admit, however, that Cuba's most legendary *vegas*, El Corojo and Hoyo del Monterrey, supply Cohiba along with the well-known Santa Damiana plantation. On average, he selects tobacco from five of the ten *vegas*, each harvest depending on the quality of tobacco available.

The production in the Vuelta Abajo for Cohiba is the same as for other brands. The tobacco, depending on its strength and quality, is dried and fermented twice in various warehouses which dot the countryside of the region. This drying and fermentation process, according to Lara, reduces the tar and nicotine in the tobacco as well as changes its color from green to various shades of brown. Some tobacco may be aged for more than 18 months during these processes. In addition, all the tobacco is classified by color and by strength during this period.

Fermentation is a unique factor in Cohiba cigars. While tobacco for other cigars only undergoes two thorough fermentations, the leaves for Cohiba go through a third fermentation at the El Laguito factory. All the key types of tobacco—the *ligero*, *seco* and *volado*—are fermented a third time. The leaves are stacked and fermented in small wooden barrels in dark closets in various parts of the factory. The fermentation may take as long as 18 months depending on the tobacco. Lara said that this costly process gives Cohiba cigars their finesse and refinement. Added the factory's assistant director, Rafael Guerra, "The third fermentation is nothing new. It is the old way of doing things. But it greatly reduces the nicotine and tars in the Cohiba ... we say in Cuba that those who smoke Cohiba will never die of cancer but those who don't will die of envy."

With the various types of tobacco in stock, El Laguito's cigar rollers—called *torcedores*—are given hatches of leaves to cover their daily production. Each hatch represents the correct blend of tobacco to produce approximately 100 to 110 cigars. Rollers can make a variety of sizes and shapes, although they generally specialize in one type of cigar for a few months at a time.

El Laguito began in 1961 as a cigar-rolling school for women. Until that time, very few women rollers existed because many of

THE SIX CIGARS OF COHIBA



LANCEROS (RING GAUGE: 38 LENGTH: 7.5")



ESPLENDIDO (47 x 7")



CORONAS ESPECIAL (38 x 6")



ROBUSTO (50 x 5")



EXQUISITO (36 x 5")



PANETELA (26 x 4.5")

CIGAR AFICIONADO's 100-point scale:
95-100 -- classic
90-94 -- outstanding
80-89 -- very good to excellent
70-79 -- average to good commercial quality
Below 70 -- not recommended

TASTING:

LANCEROS: Super elegant cigar that is always a joy to smoke. It is extremely well-made in a long, thin format. There are plenty of dark chocolate and spice flavors. A delicate finish. 94

ESPLENDIDO: What a bombshell to smoke. This cigar has unbelievable pedigree with gorgeous looks and a flawless draw. It has a perfect balance of full rich flavors and an elegant finish. 98

CORONAS ESPECIAL: An attractive coronas-sized cigar in a thinner format. Not quite up to the stellar quality of the Cohiba range but it shows very good spicy flavors and has a slightly bitter aftertaste. 87

ROBUSTO: The textbook cigar in a short, fat size. It smokes as great as it looks with lovely spicy aromas and opulent coffee, spice flavors. 96

EXQUISITO: The perfect name for a wonderful cigar. This is truly exquisite to smoke with medium-bodied coffee, spice flavors and a mellow finish. Excellent small-sized cigar. 90

PANETELA: A great little morning cigar with full flavors and a light coffee finish. This is extremely well-made. 89

TRINIDAD: THE BEST KEPT SECRET IN CUBA

Cohiba may be the El Laguito factory's best known cigar, but every month a tiny number of cigars under the name of Trinidad are produced exclusively for Fidel Castro. This cigar is so secret that few individuals (until publication of this article), including executives at the government-run Cubatabaco, are aware of its existence.

"In order to have something special and unique for Fidel Castro, we produced this special brand," said Avelino Lara, director of El Laguito. "Other Cuban diplomats and governmental officials give away Cohiba as gifts, but nobody can give Trinidad away except for Fidel Castro."



Castro has not smoked a cigar for nearly eight years now, but he still appreciates the value of a fine smoke. Lara was the only man he could trust to make such a special cigar since the tall, slender 71-year-old tobacco man once oversaw the production of cigars for Castro's personal consumption. "I literally slept with the cigars to assure that they had not been tampered with, and I had three rollers who made them for Fidel," Lara said, pointing to the place in his bedroom near the refrigerator where he kept the cigars.

Trinidad, the name of one of Cuba's most beautiful historical cities, is identical in shape and in size to the Cohiba Lanceros. It is long and thin measuring seven and one-half inches by a 38 ring gauge. The wrapper, or outside of the cigar, is slightly darker than the average Lancero, and it has a simple gold band with "Trinidad" printed in black in its center. Trinidad comes in a simple cedar box of 100 cigars, and the factory produces about 20 boxes a month.

"This is a very special cigar, the Trinidad," said Lara, holding one of them in his hand. "It is better than the Cohiba. It is the selection of the selection."

—J.S.

the cigar factory owners believed that their hands were not strong enough to properly shape cigars. The owners also thought that the men would not concentrate on their work if women were present. "I had my doubts at the beginning," admitted Lara, who started the school. "But it is clear now that they are just as good as men in rolling cigars. It only took me a few months to realize this."

Lara is considered one of Cuba's greatest cigar men. His ability to select tobacco and roll cigars is legendary. The texture of a tobacco leaf, its smell, its color, they all tell Lara more than can be imagined. "Lara is a great teacher," said Guerra, who may one day take over when Lara retires. "He is the best tobacco man in Cuba. With Lara, it is like a family at El Laguito. We hope that he never retires. Everyday you learn something from him."



AVELINO LARA AND RAFAEL GUERRA, THE ASSISTANT DIRECTOR OF EL LAGUITO, HOLDING A PHOTOGRAPH OF CUBAN PRESIDENT FIDEL CASTRO. PHOTOS BY JAMES SUCKLING.

An almost magical ambience radiates from the Cohiba factory's light-blue, classical facade. The small ornate palace of El Laguito with its elegant grounds gives a spirit of lost aristocratic grandeur, a stark contrast to the grubby, well-worn rooms inside. Nearly 300 workers labor here each day in rooms that once were filled with the finest furniture, tapestries and paintings.

The workers produce three sizes of Cohiba at El Laguito: Lanceros, Coronas Especial and Panetelas. The factory also made the similar shaped thin cigars of Davidoff—No. 1, No. 2 and Ambassadeur—until the Swiss company decided to switch its production to

the Dominican Republic last year. Lara said that the greatest possible care had always been taken to assure that each brand's cigars retained their blended character and uniqueness.

"Davidoff came here in 1969," said Lara, with a slight haze of cigar smoke around him. "Zino was in this very room and we decided together what the mix of the cigars would be and the sizes. We tasted various cigars and came up with the blends. Cohiba, however, was already developed at the time, and it was always the best of the two."

El Laguito is small when compared to other well-known cigar factories such as Partagas or H. Upmann in Havana. Although it has increased significantly in size over the last decade, El Laguito's total annual production exceeds three million cigars or about one-third to one-fifth the size of a major cigar factory. The entire Cohiba range is produced here, although thick cigars such as the short Robusto and long Esplendido are made only four to five months a year in El Laguito due to production limits at the factory. About 400,000 more of these two cigars are also produced in the Partagas factory, which receives pre-blended tobacco from El Laguito.

Although the production of Cohiba fluctuates each year according to the quality of the harvest, the average annual production by size is currently: 950,000 Lanceros, 700,000 Coronas Especial, 260,000 Exquisitos, 390,000 Panetelas, 440,000 Robustos and 660,000 Esplendidos. "In the end, we only produce what we have in the best quality tobacco," said Lara. "If we only have enough tobacco for one million cigars that is all we will make. We do not make exceptions, Cohiba is the selection of the selection."



THE GROUNDS AND REAR ENTRANCE OF EL LAGUITO, THE FORMER HOME OF THE PRINCE OF PINAR DEL RIO, TOP; RAFAEL GUERRA WITH MEMBERS OF EL LAGUITO'S QUALITY-CONTROL TEAM.

Lara is a candid and charismatic individual. He is most at ease smoking a cigar in his simple office on the second floor of El Laguito and reflecting on cigars. He loves nothing better than to recall the days as a young child when he played in the tobacco fields of the Vuelta Abajo with his Spanish grandfather who may have told him about life in the tobacco factories so well depicted in *Carmen*. "I learned many things about tobacco from my grandfather," he said puffing away on his Lanceros and watching the gray smoke rise to the ceiling as he was deep in thought. "Tobacco is part of Cuban culture, and Cohiba is the best cigar made in Cuba." ♦



DISCOVERING

RIDLEY SCOTT,
COHIBA IN HAND, DIRECTS
GÉRARD DEPARDIEU IN *1492*.

by Paul Chutkow

A SCENE FROM *1492* SHOT IN COSTA RICA. CHRISTOPHER COLUMBUS, PLAYED BY GÉRARD DEPARDIEU, KNEELING IN THE NEW WORLD.

THE COLUMBUS

LD.

PHOTOGRAPHY BY DAVID APPLEBY — © PARAMOUNT PICTURES



GÉRARD DEPARDIEU, AS COLUMBUS, MEETS WITH A MONK, PLAYED BY FERNANDO REY, INSIDE THE LA RABIDA MONASTERY IN SPAIN.

By the morning of December 2, 1991, Ridley Scott was ready to start shooting his new movie. He was up long before dawn, racing through final details. By first light, his big Mercedes was winding its way through the narrow streets of Cáceres, past the deserted esplanade, past the adobe huts on the edge of town, and finally out onto the cold Spanish plain leading to a 16th-century villa made to look like the ancient monastery of Santa Maria de la Rabida.

By temperament, Scott is calm, methodical and cool to the point of aloof, perhaps a vestige of his upbringing in the far north of England. No one ever accuses Ridley Scott of wearing his emotions on his sleeve. But one look at him this morning, fueled with coffee and cigarettes pacing around inside La Rabida monastery, inspecting the set, checking his cameras and lighting, commanding his crew, the celebrated director of *Alien*, *Blade Runner* and *Thelma & Louise* was a jangle of nerves, tightly clamped.

Etched into his face was fatigue. Dark circles ringed and puffed his eyes—so blue, so masked—and a couple of day's worth of red and gray stubble slid down his chin. Who had time to shave? Not Scott. For long months, he had been putting in marathon days and frustrating weeks, working against a terrible deadline, trying to manage a team of some 400 people, working in three different countries, on two different continents, all in an effort to plan and

shoot an adventure of epic scope and grandeur, a movie that would recreate the historic voyages of Christopher Columbus.

Once inside La Rabida, Scott moved quickly and precisely. Sharpening camera angles. Fiddling with lighting. Positioning his monks at their drafting tables, plumes in hand and eyes fixed to their maps of the world, elegantly charred out on parchment and anchored in the firm conviction that the Earth was flat. In his mind, in his sketchbook, and here on the set, Scott had already worked this crucial first scene down to its finest detail, from its color and composition to its most subtle plays of light and shadow. He composed the scene the way a classical painter would compose a mammoth canvas, one he dreamed could be a masterpiece.

Throughout Scott's career, visuals have been his greatest strength; Pauline Kael has called him a "visual hypnotist." To anyone who saw *Thelma & Louise*, with its majestic landscapes of the American West, it may come as little surprise that Scott trained as a painter and graphics designer at the Royal College of Art in London, often in drawing classes next to David Hockney. But this morning Scott seemed intent on finding an even richer visual vocabulary: The candles flickering above the drafting tables and the embers glowing in the fireplace bathed his scene in glimmering hues of yellow and orange, just as in the warm, intimate paintings of Caravaggio and Georges de la Tour.

Finally, every detail in place, the mood as he wanted it, Scott signaled he was ready to shoot. "Silencio por favor! OK, boys, quiet down now," bellowed Terry Needham, one of Scott's assistant directors. "Shhh, shhh, shhh...OK, now, a little more atmosphere! Bring up the smoke..."

At once a hush fell over the converted stable and the 150 members of the cast and crew jammed inside. And then every eye on the set turned to the far end of the monastery and focused in on a huge wooden door reaching upward like the apse of a cathedral. "Rolling...Action!" Slowly, creaking on its ancient hinges, the door inched open, and into the light came Christopher Columbus. A collective gasp rippled through the cast and crew. Columbus was cloaked in a long medieval robe the color of burnt orange with black trim, his dark blond hair flowed down over his collar, his blue-gray eyes burned with the haunted look of a man launched on a holy mission, beyond the reach of Prudence or Reason.

The impact on the set was stunning: This WAS Christopher Columbus, sprung to life. Before everyone's eyes, this towering, mysterious historical figure, so shrouded in myth, controversy and revisionist politics, was again a real man, flesh and blood, soul and will. And perfectly embodied by France's unique gift to the world of cinema, Gérard Depardieu.

At this stage in his life, and in the script, Columbus was an accomplished navigator and explorer, with long experience in the Mediterranean Sea and along the Atlantic coast of Spain, France and England. But he had been waiting an agonizing seven years for royal permission to mount his dream voyage into the pure unknown, to test his absolute conviction that the riches of the East could be reached by sailing to the West. In the halls of power in Spain, Columbus and his theory were objects of scorn and ridicule, and Columbus's patience had worn dangerously thin. Striding into the monastery, his frustration now wearing plain on his face, Columbus was greeted by his friend and spiritual and political adviser, Antonio de Marchena, being played by Spain's greatest actor, Fernando Rey.

"I have something for you," said Marchena, drawing from his robe a parchment bearing a royal seal. "You are going to be heard at The University of Salamanca."

Columbus studied the letter, marveling at the idea of at last presenting his case to an official commission of the Spanish royal court. He felt a rush of hope. And of panic: "God, that is in a week!" During rehearsals earlier this morning, Depardieu's English had come out haltingly and heavily Gallicized. But now, cameras rolling, his English came out clear, fluid and slightly exotic, as befits a humble northerner from Genoa who had settled in Spain.

"Cut! Good," said Scott. "Let's go again."

By the third try, Scott thought he had a printable take. He stared at the replay in one of his video monitors. The composition and the lighting looked right, and so did the chemistry between Columbus and Marchena. And this time when Depardieu delivered his lines, with a flurry of contradictory emotions playing across his face



GÉRARD DEPARDIEU AS CHRISTOPHER COLUMBUS.

Scott's hand flew up to his heart. In joy. And relief. After nearly a year of agonized planning, scripting, casting, scouring locations, building sets, outfitting ships and leading rehearsals, Scott seemed to sense that this \$45 million extravaganza just might deliver the magic for which every director dreams and works.

Ever cool, ever cautious, though, Scott was not about to call for Champagne. Still, after this successful take, on this crucial first scene, those who knew Scott well detected a sure sign of his rising spirits. He put away his cigarettes and instead put a match to his favorite cigar: a long, regal Cohiba, made from the finest Cuban tobacco. A bold smoke to launch a very bold voyage.

* * *

On the set of every major movie, this first day of shooting is always filled with tension and excitement, but 1492 carried with it unusually high expectations and risks. For Scott's telling of the story of Columbus and his voyage to America was not just a major film, it was a colossal gamble—a \$45 million gamble with implications far more daunting than budgets and global grosses.

This was to be a Hollywood-scale extravaganza, but this time financed and executed not by American studios and financiers but by Europeans, with European cultural values and European ideas about what the art of cinema should be. If 1492 succeeded, the film would be a welcome triumph for Europe and European cinema.

especially at a time when more and more national film industries were feeling severely menaced by America's increasing dominance of world cinema. But if it failed, *1492* would be seen in Europe and in America as a major defeat, more proof that the Europeans, with their boutique approach to film-making, and their insistence on prizing art over commerce, just cannot make smash blockbusters with industrial-scale budgets and international box-office muscle.

There were other layers of risk and ambition as well. In terms of its pan-European financing and its production team, using technicians from England, France and Spain, *1492* was designed to be a prototype venture, one that could set the standard for a range of European projects to come. Scott and Depardieu had shown they could bridge the gap between European artistic values and Hollywood commercialism; could *1492* help them lead Europe into a whole new era of major filmmaking? That was the hope. But if the



RIDLEY SCOTT RECREATED THE LOOK AND FEEL OF 15TH CENTURY SPAIN FOR THE MOVIE *1492*.

film failed, if, in the typical Hollywood parlance, 1492 should "go down the toilet," well, then, Scott and Depardieu would surely face the heaviest flak.

But you would never know it watching Depardieu this morning. Between takes at La Rabida, the huge, rollicking Frenchman joked with his makeup team, pulled pranks on the sound specialists, friends of his from France, and he did his general best to keep everyone loose and to create a kind of family spirit and chemistry among the cast and crew. Unlike so many actors, Depardieu seems to be totally lacking in ego and pretense; he grew up in a peasant family in provincial France, and despite all his success, he is not about to become a supercilious Parisian. On the set, his warmth and clowning served as a sharp contrast and complement to Ridley Scott's aloof precision and preoccupation.

Like Depardieu, the origin of 1492 was purely French. In 1987, a young French journalist named Roselyne Bosch went to Spain on what was supposed to be a routine assignment for the French newsweekly *Le Point*. Bosch was doing an article on how Spain was going to fete the 500th anniversary of Columbus's voyage on behalf of Spain's Queen Isabella and King Ferdinand and for her research, Bosch went to Madrid and then further south to Seville to peek into the provincial archives.

In the two cities, like countless historians before her, she found some 40 million parchments, many never deciphered, and she found scores of letters handwritten by Columbus. Leafing through some of Columbus's books, she sometimes found notes and little drawings penned in the margins. The more she looked through his books and papers, the more real Columbus became to her; all the mythological haze surrounding the man started to clear.

Bosch: "I was deeply moved just by seeing his handwriting and signature. Suddenly, instead of being like Santa Claus, Columbus was a human being....Sometimes in the margin of a book, he would draw a little hand pointing to a certain passage. It was very moving, and I thought, 'This ought to be a movie.'"

Indeed it seemed a natural, especially with all the hoopla planned for the 500th anniversary of Columbus's voyage. And no one, up to then, had ever brought Columbus convincingly to the screen. In 1949, Hollywood brought out a *Christopher Columbus*, with Frederic March in the title role, but the general assessment was that the movie was an embarrassment and certainly not what Columbus deserved. In fact, with all the renewed interest in him, it has now

become clear what a fascinating man Columbus was, no matter how disputed is the legend that he discovered America.

While historians disagree about many aspects of his life and travels, there now seems to be a consensus that while Columbus hoped to return from The New World with gold, silk and spices, he returned with something that proved to be as valuable: tobacco. Most accounts, from historians from America to Cuba, now maintain that when Columbus visited Indian villages in the Caribbean, he found the natives smoking enormous leaves fashioned into tight rolls, an aboriginal cigar. According to some Cuban accounts, two of Columbus's crew members, Rodrigo de Jerez and Luis de Torres, were sent on a mission into the interior of what Columbus thought was the Asian mainland but was probably Cuba. There, in a peaceful village, they made what was probably Europe's first sighting of tobacco.

**RIDLEY SCOTT
RUSHED HIS
CREWS AND
ACTORS THROUGH
A BREAKNECK
SCHEDULE FOR
82 DAYS IN SPAIN
AND COSTA RICA
TO HAVE THE
FILM READY
FOR A GLOBAL
RELEASE ON
OCTOBER 9, 1992.**



By some historical accounts, Columbus himself was indifferent to the appeal of tobacco, so preoccupied was he by his quest for the Grand Khan and the source of Solomon's riches. But tobacco was among the curiosities and riches Columbus's ships brought back from The New World, thus introducing the pungent leaves to Europe and laying the groundwork for the tobacco industry and popular sub-culture that would develop over the next 500 years. In subsequent voyages, European explorers and traders bartered their silks and cinnamon and other spices for bales of tobacco, until the leaves themselves became a focal point of the growing transatlantic commerce.

Bosch came to see Columbus as an ideal subject for a film, a movie showing him not as a cartoon character but as a real man fueled by intellectual fervor and messianic zeal. She called a friend of hers in Paris, Alain Goldman, a French film

distributor. He flew to Seville for a firsthand appraisal of the Columbus material and a visit to the cathedral in Seville, where Columbus is buried. (Though there are historians who doubt the remains are actually his.) Excited by what he saw, Goldman encouraged Bosch to pursue her research, and she stayed on in Spain. Soon the two of them became partners in a fledgling film venture: he as producer and Bosch plunging into research and a conversion from journalism to screenwriting.

Initially, they envisioned doing the entire film as a French project, but they found no support among French producers. It would be too big a budget for France, the producers said, try Hollywood. Rank amateurs though they were, neophytes with little idea how Hollywood worked and French to boot, Bosch and Goldman nonetheless started knocking on the doors of American studios. And they found no encouragement. And understandably so: they had no director, no star and no track record in screenwriting or movie production. You can almost hear Hollywood executives chortling: "No star, no script; kids, kids, get real."

Bosch became very disconcerted, but then for *Le Point* she did a profile of the American writer Tom Wolfe. He told her about how he had come to write *The Right Stuff*, and of his admiration for the NASA astronauts. Bosch was inspired: "Listen," I told him, 'the astronauts are nothing next to Columbus.' It was talking with Wolfe that I started to believe....And the more I read, the more I worked, the more convinced I became that Columbus was somebody people think they know, but really nobody knew. And so I felt I had to tell them."

Finally, Bosch knocked on the right door: Ridley Scott. He had ideal credentials for directing Columbus: he was a European with artistic merit, commercial success and excellent connections in



SCENES FROM CHRISTOPHER COLUMBUS'S FIRST ENCOUNTERS
WITH NATIVE INDIANS IN THE NEW WORLD

Continued on page 130

MELIA VARADERO VARADERO, CUBA

Cuba's Varadero has always been known for its exquisite white, sandy beaches and clear, light blue sea, but the hotels available until recently had very little in common with the area's first-class coastline. Then came the Melia Varadero. Opened in December 1991, the 483-room Melia Varadero is the only five-star hotel on the thin, 35-kilometers-long peninsula which juts out into the Caribbean Sea. Cuba is no different than many other Caribbean Islands, and therefore, its rating system for hotels can be extremely suspect. But the Melia Varadero is a very good hotel, even by international standards.

The impressive white, star-shaped building with its seven wings sits on a small bluff overlooking the sea. Nearly every room has a balcony with a sea view. Inside, the public areas, such as the lounges, restaurants and bars, are immaculate. The large atrium with its fountain in the center of the hotel is a blissful spot to take a break from the hot Cuban sun. The hotel staff is friendly and helpful, but oftentimes slightly inefficient. Patience is an important virtue for any tourist in Cuba.

The hotel's swimming pool is large and multi-leveled with various small bridges criss-crossing the water. All bridges lead to the bar in the center; so, it is easy to find your way to a cold beer or cocktail. Bar maids are always close by to take orders for food or drink while guests luxuriate in the sun. If you prefer ocean swimming, a one minute walk takes you to the soft caressing waves of the Varadero. There are lounge chairs on the beach, although refreshments are unavailable. The water is a beautiful shade of turquoise. You can wade out about 30 yards before actually swimming. There are few waves, so it is an ideal place for children.



THE POOL AREA OF THE MELIA VARADERO HOTEL.

The hotel's restaurants are very good by Cuban standards, with plenty of fresh fish, chicken and meat. The food here is not complicated. A good rule when eating in Cuba is to order the simplest things on the menu. Stay with grilled fish or chicken and you will seldom be disappointed. Getting dressed for dinner at the Melia Varadero means an open-collar shirt and trousers for men. The main restaurant is the most popular but it is just as enjoyable relaxing in shorts at the grill restaurant next to the pool. The wine list is adequate in both restaurants with a few Spanish and French wines, but an ice cold beer, preferably the local brew called Hatuey, goes down best in the hot weather.

The rooms are comfortable. All have tiled floors, wicker furniture and large beds. The telephone system is efficient and a fax is available. Satellite television is available in every room. Prices are reasonable with a double room costing about \$140 a night. The seven suites range from \$240 to \$300, and include a large bedroom, a separate living room and two bathrooms.

At the moment, most of the guests at the Melia Varadero are either Canadian or Spanish, although more Europeans are expected in the future. A few Americans stay each year, but they have to be rather enterprising to get there due to the restrictions on travel to Cuba from the United States. Most of the guests, like in other Varadero hotels, come on package tours, which cost as little as \$400 or \$500 a week from Canada. Most direct flights to Havana or Varadero from North America originate in Montreal, while Manchester, Paris and Madrid are the key gateway cities from Europe.

Hotel guests can sign up for day trips from the Varadero to Havana. The distance between the two cities is about 140 kilometers, but the travel time is about two hours each way due to the poor roads. Most people pass on the opportunity in lieu of the hotel's pool and beach. For a cigar lover, however, it would be a shame not to visit one of the cigar factories in Havana. But if the trip seems too difficult, guests won't be deprived because cigars are very affordable at the hotel. Cohiba Lanceros and Coronas Especiales can be purchased for about \$5 each.

Varadero is a vital tourist center for the Cuban economy, and last year, it generated close to \$100 million. A large proportion of the nearly 300,000 tourists who come to Cuba go to the Varadero. An 18-hole golf course, food and gift mall, and apartment complex are already under construction near the hotel.

There is something to be said about sitting next to a swimming pool, smoking a Cohiba and drinking a cold cerveza. Although the Melia Varadero may not be five-star quality on an international level, it makes a grand statement for tourists visiting Cuba.

— J. S.

MELIA VARADERO Autopista Sur
Varadero, Matanzas, Cuba
Phone: (Check with travel agency)

Room Rates: Double, \$140; Suites, \$240 to \$300

Hollywood. He was just coming off *Thelma & Louise* and it would soon bring him an Oscar nomination as best director. By chance, Scott on his own had been exploring the idea of doing a film on Columbus, and when Bosch set forth her vision and a synopsis of a script, he had one immediate reaction: "Yes, if Gérard Depardieu would agree to be Columbus."

This took Bosch by complete surprise; oddly, Depardieu had not even occurred to her. With their sights set on finding U.S. financing, she and Goldman had been focusing on American stars like Kevin Costner and Michael Douglas, big names they figured would be the only way they could secure the necessary funding. But as soon as Scott said it, Bosch knew Depardieu would be perfect. The star of *Cyrano de Bergerac*, *Danton*, *Jean de Florette* and *The Last Metro* was now the biggest star in Europe, and with Peter Weir's *Green Card*, he had made an impressive debut in the English-language market. Distributed by Disney, *Green Card* grossed over \$40 million in America alone.

Bosch was sure he would be perfect for Columbus. "Right away I knew there would be no problem with energy; Gérard would burst the screen," she said. "And from that moment on, thinking of him in the role gave me a big push. Instead of having an abstract idea of Columbus, I knew it was Gérard. It was a liberation."

But would Depardieu agree?

Bosch sent Depardieu a draft script and then set up a meeting with him in Paris, at the Hotel Raphael, a favorite rendezvous point for French film stars and executives. She and Scott arrived in the bar at the appointed hour of 7 p.m., but there was no sign of Depardieu. After a half-hour wait, Bosch telephoned Depardieu at a pied-à-terre he keeps in Paris, and he answered with a very soft, very shy voice. Had he forgotten? Or was he just nervous about taking on such a colossal role? She had no clue, but soon Depardieu was storming into the Raphael and into a torrential stream of conversation. For an hour Depardieu did most of the talking, about himself and his vision of Columbus; it left both Scott and Bosch a little dazed.

Bosch: "To my astonishment, I realized that in one or two readings he had understood all the subtleties behind the lines. When in Hollywood I had tried to discuss Columbus's relationship with

Queen Isabella, I had great difficulty, because it was ambiguous, it was an unresolved sexual attraction. In sum, it was not Hollywood. Gérard got it right away, like a laser....Ridley and I came away very excited. Gérard is larger than life. And Ridley films larger than life. It seemed a perfect match."

With Depardieu aboard, Goldman and Scott went to see Gaumont, the French film conglomerate and part of the Schlumberger family empire. They met with Nicolas Seydoux, head of Gaumont, and a close friend of Depardieu. Scott was expecting a tough Hollywood-style negotiation, but when they named a price of 43 million francs, some \$8 million, one of the largest sums ever paid for French distribution rights, Seydoux simply said fine. "We shook hands," Scott recalled, "and then a moment later a waiter came out



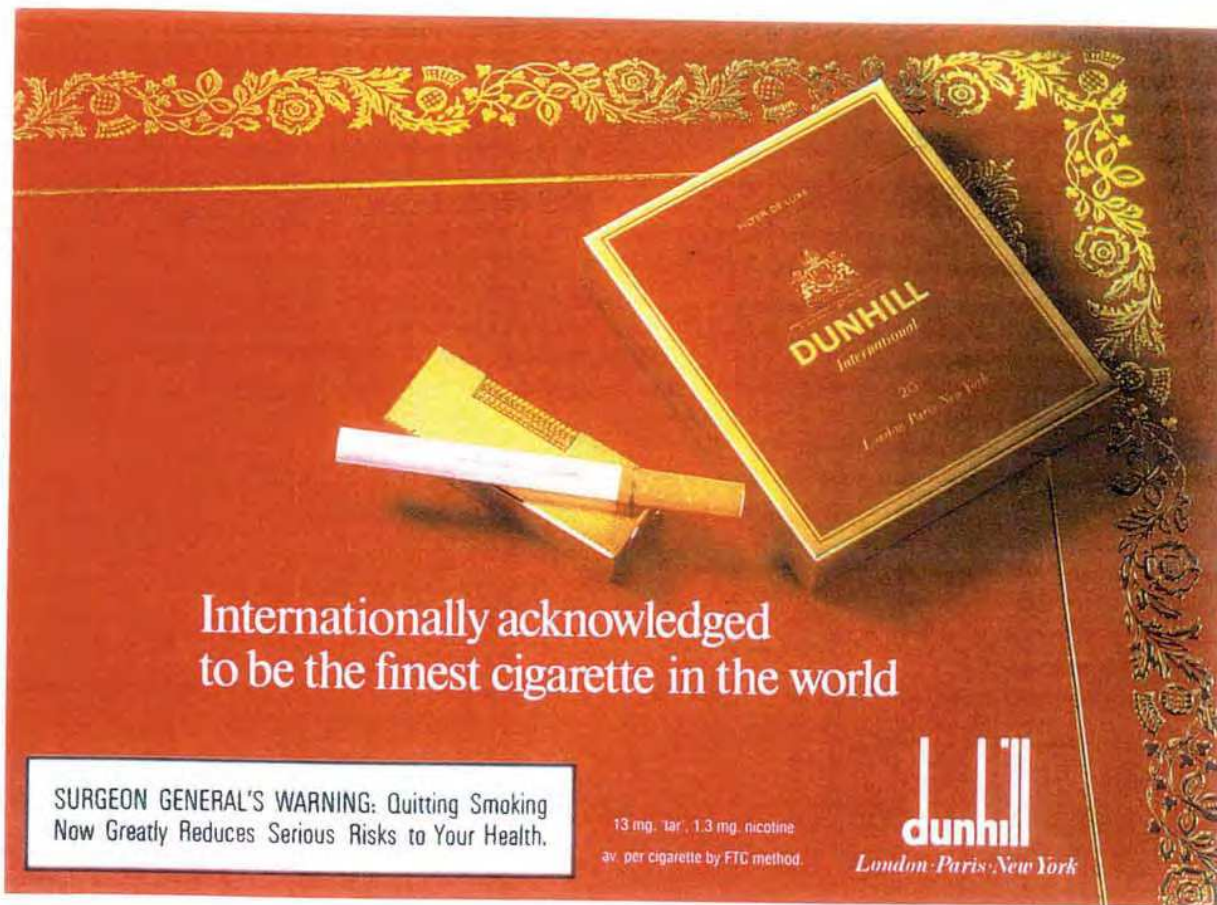
GÉRARD DEPARDIEU WITH NATIVES.

carrying a silver tray with a bottle of Champagne, from the family winery of course."

* * *

With Gaumont providing the essential start-up capital, Scott and Bosch began putting together the mammoth venture, from finding and outfitting Columbus's ships to scouting the locations needed in Spain and The New World. Goldman focused on packaging and selling world rights to their project, but soon he ran into an unexpected and terrifying hitch: Hollywood competitors.

Producers Alexander and Ilya Salkind, best known for their *Superman* movies, had their own Columbus film in the works, and it promised to be a real Hollywood shebang. There was talk Tom Selleck would play the lead, there were rumors Marlon Brando would have a role, and the Salkinds were busy trying to legally



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DISCOVERING COLUMBUS

corner every conceivable title using the name Columbus. Both productions feared that even in the year of the 500th anniversary of his sailing, the world market just could not accommodate two Columbus extravaganzas.

Goldman, then not even 30 years old, was suddenly dipped into a full-scale Hollywood battle, one that would fry his nerves for months on end, right down to the first week of shooting, when he was still waiting for bank guarantees and insurance clearance. The battle quickly became nasty and was played out at several levels: with distributors and theater chains, with lawyers arguing over the rights to potential titles, and it was played out in the press, from *Variety* to *The New York*



GÉRARD DEPARDIEU AS COLUMBUS WITH ANGELA MOLINA
PLAYING BEATRIX.

Times. The Salkinds made lavish use of *Variety* to announce they had signed Brando, for \$5 million, to play Tomas de Torquemada, the infamous head of the Spanish Inquisition. Selleck wound up as King Ferdinand, while for Columbus the Salkinds signed George Corraface, a European whose name has yet to become a household word or a box-office draw.

From the vantage point of the Europeans, the Salkind project was going to be Hollywood as usual: a slick, highly commercial action picture, Superman meets Columbus. A cliché, bearing little resemblance to the kind of historically accurate epic and human portrait Scott,

Bosch and Goldman wanted. So when *The New York Times* did a large piece putting the two pictures on an equal footing, Scott went

ballistic. To his mind, it was as if *The Times* was dealing with Superman and Caravaggio in the same breath. He raged about it for weeks, and he even drafted angry letters to the editor venting his spleen. Only the counsel of close friends, and Depardieu, kept him from mailing them off.

In the battle between the two Columbus movies, as in the larger rivalry between the American and European film industries, money is one of the clearest lines of demarcation. For his role as the Spanish inquisitor, involving ten days of shooting, Brando got \$5 million. For playing Columbus, dominating nearly every scene in an 82-day shoot, Depardieu happily agreed to a package of \$3 million, plus a hefty share of the take in France and a smaller share of other markets.

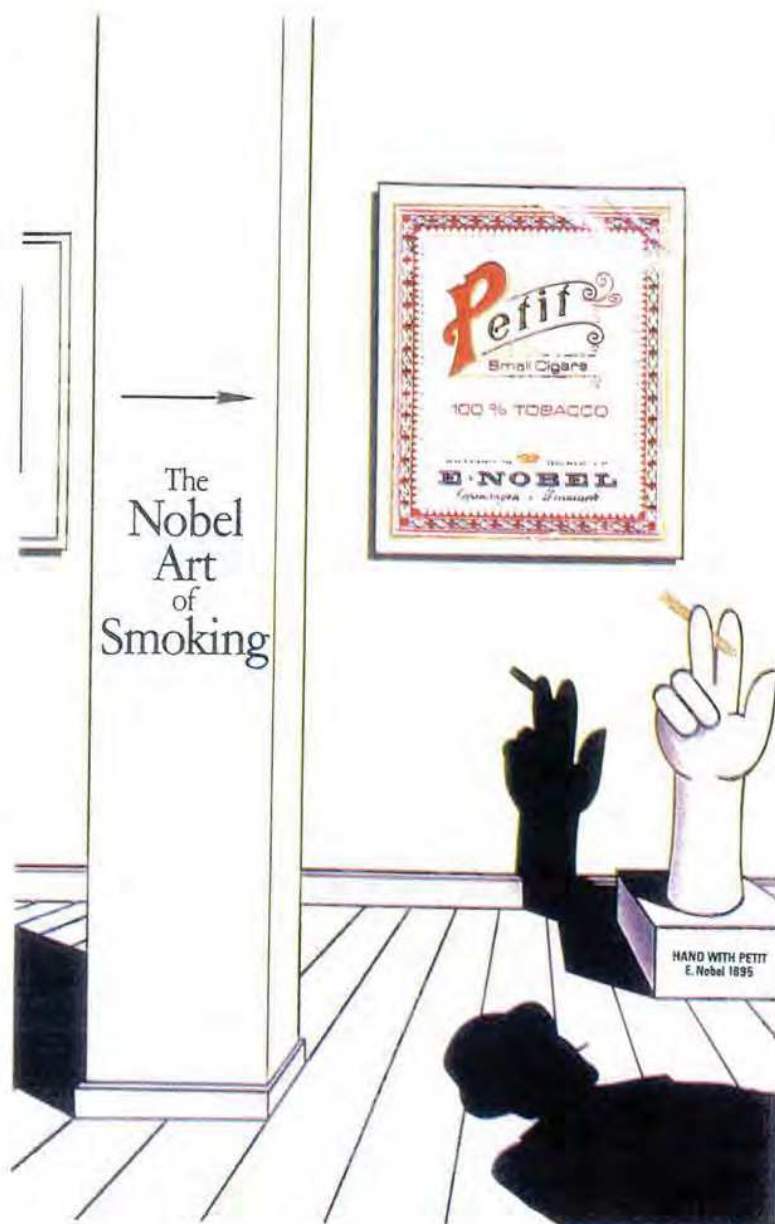
Probably no other star in Europe could command anywhere near that figure, and European producers show no inclination to get into American-style bidding wars for big-name stars and directors. For the Europeans, it is not just a question of money, it is a question of values. Depardieu, for instance, will follow Columbus by making a low-budget picture with France's Jean-Luc Godard, an artistic venture for which he will be paid practically nothing. Few American actors would do the same.

At this year's Cannes Film Festival, along with rival posters announcing the two Columbus films, these two radically different attitudes about money and the cinema were once again on vivid display. One of Cannes's most acclaimed films was the Merchant-Ivory production *Howard's End*, starring several of Britain's greatest actors: Anthony Hopkins, Vanessa Redgrave, Emma Thompson and more. The film has been hailed a masterpiece by many critics, and it is doing very well commercially around the world. European film wags in Cannes were gleefully noting that the entire film was done for \$8 million, just over half the \$15 million Michael Douglas received up front for his lead role in *Basic Instinct*.

Still, all the wags in Cannes cannot change the cold logic of the money men in Hollywood: to them, \$15 million for Douglas, and the record \$3 million paid to Joe Eszterhas for his script, look like great investments. The film is on course to gross some \$200 million. By early summer it was even the leading box office hit in France, home of the auteur and probably the most eclectic film audience in the world.

Intellectuals in France cringed and with cause: They had to swallow the opening of EuroDisney and *Basic Instinct* within just a few weeks. But only two French films were drawing anywhere near comparable numbers: *Tous Les Matins du Monde*, starring Depardieu and his son Guillaume, and *Indochine*, featuring Catherine Deneuve's best performance in years. Little wonder the French so often decry "the tyranny of the marketplace."

Against this backdrop, and with all that was at stake, the first day's tension on the set of *1492*, inside La Rabida, was certainly understandable. Besides, like the Salkinds, Scott was having his own problems with casting. During the first two weeks of the shoot, he still had no Queen Isabella. Scott had wanted Anjelica Huston, but negotiations with her battery of agents turned into a nightmare, and they



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DISCOVERING COLUMBUS

turned to Sigourney Weaver, the star of Scott's first *Alien* movie, who worked out fine. At one stage in the Huston impasse, Scott just threw up his hands: "Screw 'em all. I'll take me mum."

Scott's impatience only emphasized his frustration with the way movies are made today. The way he and his producers managed *1492* made clear that Scott has no fondness for Hollywood glitz and self-indulgence. In a world where some American actors demand to travel with their personal trainers, and where Kim Basinger demands cases and cases of Evian with which to wash her hair, Scott and Depardieu allowed themselves only a few indulgences: Scott his Cohibas and Depardieu his phone.

Depardieu hates limousines, and while he prefers wines that are light, fruity and modestly priced, Depardieu is not about to skimp on his round-the-world phoning. Depardieu makes three, four, sometimes even five films a year, meaning almost his entire life is spent on the road. His telephone is his life-line, to his wife and two children in Paris, to his agents in Paris and Los Angeles, and to director-pals like Peter Weir in Australia, with whom he made *Green Card*.

Indeed, telephoning became one of Depardieu's only reliefs from what turned out to be a grueling five months of rehearsals and shooting. Scott is what Depardieu calls "a work maniac," and throughout the 82 days of shooting, the typical schedule began before 6 a.m. and rarely ended before 8 or 9 p.m. In Cáceres, a night scene of a spectacular public burning of heretics went on for some 17 hours, until the extras, recruited locally, began an angry revolt. At one stage, the production chiefs were considering shortening a Christmas leave, an idea later abandoned, and only a "mais, non" from Depardieu halted plans for one day of Sunday shooting. For the most part, though, there was little complaining about the murderous schedule. Everyone understood that Captain Scott, whom his English crew calls "Guv'nor," was up against a terrible deadline. The film had to be shot, edited, mixed and polished in time to get enough prints for the world launch date: October 9, 1992, on Columbus Day weekend. Scott did not intend to be late.

* * *

On the open sea in the tropics, the heat was murder. Upwards of 100 degrees. Aboard the *Santa Maria*, the cast and crew were stripped down to their shorts, the extras were sprawled out on the

deck, even the usually indefatigable Ridley Scott looked as wilted and wrinkled as his cotton shirt. And with good reason: today was the 82nd day of the shoot, 82 days with Scott alone at the helm. But with any luck, this would be the last day of the shoot, and Scott was on course to wrap up his voyage not only on time and within budget, but almost a full day early.

All morning Scott and his crew shot scenes on the bow of the *Santa Maria*, nothing complex, mostly pans and close-ups of his principal actors. And after each of the stars finished his work, the cast and crew gave them an ovation. By now they were all part of the same family. The shoot had moved to the coast of Costa Rica in January of 1992, to film the segments of Columbus leading the *Nina*, the *Pinta* and the *Santa Maria* to the shores of The New World and establishing his first base camps. In Costa Rica, not just the heat but the pace had proved to be grueling.



RIDLEY SCOTT AND GÉRARD DEPARDIEU ON THE SET OF *1492*.

Scott usually had his cast and crew on the boats by 6 a.m. and would shoot until all the natural light was gone, stopping only for a break for lunch and a communal swim. In America, where crews work under tight union regulations, such a schedule would have been unthinkable, not to mention what it would have cost in overtime. But with the British film industry in shambles, the predominantly English crew was happy to have the work, especially on a venture that held out so much hope for European cinema.

Still, it had been 82 days of exhausting frenzy. Such was the rush that Scott's aides were assembling rough cuts as the shooting in Costa Rica progressed. And anyone visiting the set in Costa Rica quickly understood that the \$45-million European budget was not spent on star salaries or limousines. Consider only Columbus's three majestic caravels, the *Nina*, the *Pinta* and the *Santa Maria*. Two of the ships came from Bristol, England, where they had been refitted

DISCOVERING COLUMBUS

from the hulls up and sailed across the Atlantic, with full crews. The third ship Scott's team found in Brazil, and it had to be reworked and sailed to the Pacific side of Costa Rica.

At one stage, the Europeans considered bringing the boats home via New York and its planned regatta of sailing ships, part of the Columbus 500th anniversary festivities. The ships' presence might have generated good publicity for 1492, but in the end the price tag of the detour was judged too steep: \$1 million.

A much larger sum was spent building La Isabella, a replica of the village Columbus established on the island of what was then known as Hispaniola, now the home to Haiti and the Dominican Republic. Near the Costa Rican coast, Scott's team built a lovely Spanish church, a villa for Columbus and a series of out-buildings. Bosch's script shows Columbus in all his faults as well as strengths, and the film shows some of the violence he used to quell the local populations, violence that on screen meant putting a torch to La Isabella, practically before the whitewash was dry. They also built a long jetty out over the sea, so that the Santa Maria could use it as a dock. At last report, there were no plans to burn it down.

On this final afternoon aboard the Santa Maria, the cast and crew were a swirl of conflicting emotions. Over the long months, they had formed themselves into an itinerant family, far away from their real families. And now, the work nearly completed, they would

soon be going their separate ways, back to England, France, Spain and America. One of those who would be returning to America was Kevin Dunn, who was portraying the captain of the Santa Maria, with Depardieu above him as commanding admiral of the fleet.

During the shoot, Dunn and Depardieu had become pals, and Dunn brought a purely American eye to the entire Columbus venture. A native of Chicago, now working out of Los Angeles and finding his way into some good secondary roles, Dunn found working with Depardieu to be a dream come true. "Years ago, I vowed to work with him," Dunn said, "because, watching his movies, I couldn't keep my eyes off him. There was so much going on."

What impressed Dunn during the shoot was Depardieu's lack of pretense and his naturalism on camera; the Frenchman works like no American actors. "One day here in Costa Rica," Dunn said, "we were all going up a path through the jungle. Most of us tried to make it look easy, out of the ego of not wanting to look clumsy. Not Gérard. He just let whatever was going to happen happen, and when at one moment he staggered and nearly fell, I'm sure he looked great on camera and wholly believable."

On another scene in the jungle, trudging through a river, many of the actors were anxious about snakes, Dunn recalled. "So there we were, up over our waists in the water, and the director yells, 'Action.' And suddenly, we would feel this terrifying jab right on the thigh, just like a snake. It was Gérard poking you under water



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with a metal pike and shouting, "Let's go!" I've never seen anything like his method of acting. It's just so different. I think he doesn't want to know what is going to happen emotionally. And I don't know of any other actor in the world who could have pulled this film off."

That seemed to be the general sentiment aboard the *Santa Maria* on the final afternoon of the shoot. And there was also a general glee emanating from rumors about the Salkind film. A few weeks later, Marlon Brando publicly attacked the Salkinds and denounced the movie, claiming that despite their promises to the contrary, the Salkinds were portraying Columbus as though he were a cartoon hero, instead of the murderous villain and plunderer Brando feels he was. Brando's attack was big news, but none of the reports indicated if he planned to give back his \$5 million fee.

On this final afternoon, Roselyne Bosch and Alain Goldman were on hand to bear witness to the end of this stage in the birth of their baby, and they were both in awe of Depardieu. To Bosch's surprise, Depardieu had never suggested changes in her script or interfered in any way with Ridley Scott. "They lead, I follow," was how Depardieu described it, except for one scene in Costa Rica, which to the actor just did not feel right. He explained why, Bosch said, and everyone instantly knew he was right. "It was just as Ridley often told me," Bosch said, "for this film, Gérard was a benediction."

At 5:25 p.m. in the afternoon, the heat of the day finally subsiding, and the bow of the *Santa Maria* framed by the orange sun lowering on the horizon, Columbus stood with his face to the wind, the explorer now an old man completing his fifth voyage across the

Atlantic. Ridley Scott, Adrian Biddle, his cinematographer, and the rest of the camera crew zoomed-in for close-ups. This was to be their last shot of Columbus, and an air of quiet settled over the ship, as the cast, crew and extras looked on in silence.

Their long, punishing voyage was drawing to a close, their multilingual, multicultural family was about to split up, and it was a solemn, moving moment. Until Depardieu pinched a cameraman on the arm and let out an hysterical cackle. Ridley Scott allowed himself a grin, and it quickly broadened into a smile, and then all his British reserve seemed to melt away in the emotion of the moment. Ahead of him were long months of editing and post-production, but Scott was bringing his boats and his crew back on schedule, with nary a mishap, and with old Columbus alone in the bow, just as Scott had sketched him many months before.

The last close-up done, Depardieu pulled off his gray wig and stood to a huge ovation from the cast and crew. An hour later, as the *Santa Maria* drew up next to the jetty, Champagne and a similar ovation greeted Ridley Scott, the Guv'nor, the respected captain of this exotic adventure. He was feted and toasted and hugged and kissed and endlessly congratulated, a might tough for anyone used to maintaining a stiff upper lip.

But it was a moment Scott might well cherish for a long time to come, especially on those rare moments between films when he can relax, put his feet up and enjoy a Cohiba. And if the heathen critics should fail to appreciate his painterly vision, well, he can always use his Cohiba to torch their bloody reviews. ♦

CIGARLAND/Continued from page 70

shade wrapper farm is an indication of the company's efforts to produce a quality cigar. He said the wrapper farms were some of the most sophisticated agricultural operations in the world today.

THE FAMILY FUENTE

"We're just a little family company—No corporate jets; no fancy cars," Carlos Fuente Jr. said, welcoming a group of visitors into the cramped office of his father, Carlos Fuente Sr., at A. Fuente & Cia. It doesn't take long to discover that the younger Fuente enjoys fooling visitors with humble understatements. Downstairs from the offices, Caribbean merengue, the national anthem of the Dominican Republic, drifts from loudspeakers across an air-conditioned, humidified room filled with dozens of rollers, smiling, chatting and making cigars.

Fuente can't help but acknowledge the reality. "This is the largest handmade cigar factory in the world," Carlos Jr. said later. "We're making 18 million cigars a year here." Although there may be some hyperbole in the claim, there's no doubt that this is a big time cigar operation where Arturo Fuente, Montesino and a host of private labels are manufactured.

Big time but still very much hands on. It starts with the fact that most of the Fuentes' bunchers and rollers, especially on the larger

size cigars, are men. "They have to be able to press it with their hands, and men do it better," Fuente Jr. said. He also said that everyone is encouraged to smoke because "they have to know." The Fuentes also disputed the use of machines to test for draw, and instead, have supervisors testing each cigar by hand. "We do it all by hand, and feel," said Fuente Jr. "If you use a machine, you become too dependent on it. The machine may tell you it draws OK but it won't tell if there's any empty spot in it."

The old ways extended to the humidified storage areas, where "hands" of tobacco leaves, about 40 leaves tied together in a bunch, are hanging from the ceiling, right next to temperature and humidity gauges. Fuente Jr. grabbed a bunch and flipped the leaves to test for crispness and humidity. "This is the old Cuban way, by feel. The gauges can be misleading," said Fuente Jr. "If your machines get stuck for a day, or if a door has been left open too long, you could screw up \$1 million of tobacco in one day."

In another room at the back of the plant, next to seven foot-high mounds of fermenting tobacco leaves, Rafael Martinez and his brother Santiago Martinez stood over incoming boxes or bales of fermented tobacco, cutting each one open to check the condition of the leaves—again, checking by touch and appearance. For the company's Dominican tobacco, Rafael said he could tell which region the tobacco had been grown in and in some cases even which farm it had come from, not unlike a well-qualified wine



PRESIDENT KENNEDY, LEFT, AND PIERRE SALINGER, HIS PRESS SECRETARY, AFTER A NEWS CONFERENCE.

Continued from page 154

I was now a solid Cuban cigar smoker, I knew a lot of stores, and I worked on the problem into the evening.

The next morning, I walked into my White House office at about 8 a.m., and the direct line from the President's office was already ringing. He asked me to come in immediately.

"How did you do Pierre?" he asked, as I walked through the door.

"Very well," I answered. In fact, I'd gotten 1,200 cigars. Kennedy smiled, and opened up his desk. He took out a long paper which he immediately signed. It was the decree banning all Cuban products from the United States. Cuban cigars were now illegal in our country.

The embargo complicated my life. The only time I could get a few Cuban cigars was when I traveled abroad with the President to countries like France, Austria and Great Britain. But then, in late May 1962, I went alone to Moscow for the first time. I met for two days with Nikita Khrushchev, talking face to face with the Soviet leader. As our meeting came to end, Khrushchev turned to me.

"Gospodin Salinger, I see you like cigars. Well, I don't, and yesterday I received a wonderful present from Fidel Castro. I'm going to give it to you." He waved at an assistant who brought over a huge

wooden box with the Cuban flag encrusted in the top, and inside were 250 gorgeous Cuban cigars. My first thought was I couldn't take them to the United States because it was illegal. But then I thought I was traveling with a special Presidential diplomatic passport, and I would have no trouble at U.S. Customs. I decided then and there to take them home and share them with the President.

When I arrived back in the office, the President immediately wanted to talk to me about the Khrushchev meetings. But I interrupted him.

"I made a killing in Moscow, Mr. President. I got 250 Cuban cigars."

The President looked shocked. "Do you have any idea what a scandal it will create if someone finds out you brought those cigars illegally into this country, particularly since I banned them?"

"It's no problem, Mr. President," I replied. "There are only three persons who know about these cigars—you, me and Khrushchev."

"That won't work. I want you to take them over to the chief of customs, and turn them over. And because I don't trust you with regards to cigars, I want you to come back with a receipt."

Overwhelmed with sadness, I went to customs and handed them over. After the chief had given me a receipt, I asked him what he was going to do with the cigars.

"Destroy them," he said without any sentiment.

"Yes, I know," I said as I was walking out of his office. "You're going to destroy them one by one."

About six months ago, nearly 30 years after my sad encounter with U.S. Customs, I landed at Kennedy airport in New York City. I walked through Customs and saw a Customs agent smoking a Cuban Davidoff cigar. He was obviously destroying a confiscated batch one by one.

Since 1968, I have been working in Europe. So, my access to Cuban cigars is no longer a problem. They are available everywhere, even though at a high price. But my learning about cigars hasn't stopped over the years. For instance, in 1974, I finally went to Cuba where I ended up in a long meeting with Castro. He handed me my first Cohiba cigar which at the time was still unavailable to the general public.

So, Kennedy, Khrushchev and Castro all had a hand in my cigar mania.

As I rush to finish up this piece, I'm puffing away on a Partagas Lusitania, which to my taste, is the best Cuban cigar in the world today. And, over the years, I learned about the best from some of history's great cigar smokers ... so I like the best. ❖



KENNEDY, CUBA AND CIGARS

by Pierre Salinger

Cigars have been a part of my life. My smoking habit began in my youth, helped me write my own adult history, and now, cigars are in my dreams. Even though the world is rising against smoking, and particularly against cigars, I still feel they are part of my daily world and I have no incentive to stop smoking them.

My cigar smoking started when I was young. I entered the United States Navy in the early days of World War II and when I reached the age of 19, I became commanding officer of a submarine chaser in the Pacific Ocean. But to run a ship that had 25 sailors and two other officers, all older than me, posed a deep psychological problem. How could I convince them that I was a man of authority? Even if the quality of those big cigars was mediocre, they accomplished their purpose—they made a 19-year-old boy really look like the commander of the ship.

When I returned to San Francisco after the war, I went back to a job at a daily newspaper where I had briefly worked before entering the Navy. I kept on smoking my cigars while I wrote articles. But the cigars were still bad cigars, and they obviously smelled bad. There was a wonderful woman journalist working for the newspaper who hated the smell. She decided to take up a collection among my fellow workers. She handed me \$19.32 and told me it was her contribution for a better quality of cigars. Better cigars, better smell.

Despite the self-interested largess of my colleagues, I still did not advance to the cream of available cigars in those days, the imports from Cuba. Actually, I would have to wait until I was almost 35 years old before I started to work for a rising young American politician named John Kennedy, who liked to smoke Petit Upmann Cuban cigars. Working around him, I felt I had no choice but to upgrade my smoke of choice to a Cuban. I've smoked them ever since.

Shortly after I entered the White House in 1961, a series of dramatic events occurred. In April, 1961, the United States went through the disastrous error of the Bay of Pigs, where Cuban exiles with the help of the United States government tried to overthrow the government of Fidel Castro. Several months later, the President



JOHN F. KENNEDY RELAXES IN THE OVAL OFFICE AT THE WHITE HOUSE WITH HIS FAVORITE SMOKE, A PETIT UPMANN.

called me into his office in the early evening.

"Pierre, I need some help," he said solemnly.

"I'll be glad to do anything I can Mr. President," I replied.

"I need a lot of cigars."

"How many, Mr. President?"

"About 1,000 Petit Upmanns."

I shuddered a bit, although I kept my reaction to myself. "And, when do you need them, Mr. President?"

"Tomorrow morning."

I walked out of the office wondering if I would succeed. But since

Continued on page 153

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 37)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO
d.b.a CUBATABACO

Plaintiff,

-against-

CULBRO CORPORATION,
GENERAL CIGAR CO., INC. and
ALFRED DUNHILL (NORTH AMERICAN), LTD.:

Defendants.

X

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97 Civ. 8399 (RWS)

DECLARATION OF JESSICA HEYMAN

I, JESSICA HEYMAN, declare under penalty of perjury that the following is true and correct:

1. I am a paralegal in the firm of Rabinowitz, Boudin, Standard, Krinsky and Lieberman, P.C., attorneys along with Paul, Hastings, Janofsky & Walker LLP for the plaintiff in the above-captioned action. I graduated in 1993 from Barnard College, Columbia University with a Bachelor of Arts degree.

2. At the request of plaintiff's counsel, I conducted a broad search, more fully described below, for the use of the term "Cohiba" in connection with cigars in publications and other literature available to United States consumers.

Summary

3. My search disclosed that since 1977, plaintiff's COHIBA has appeared in over 700 articles in publications of general circulation, including such national magazines as *Time*, *Newsweek*, *U.S. News & World Report*, and *Forbes* and in major newspapers such as *The New York*

Times and *Los Angeles Times*. The leading United States cigar publication, *Cigar Aficionado*, which has been generally credited with the resurgence of the premium cigar market in the United States, has prominently and consistently featured plaintiff's COHIBA, beginning with its premier issue in Autumn 1992 and continuing in virtually every issue of the quarterly thereafter. In total, there are at least 149 articles in that publication mentioning COHIBA. There have been television features on COHIBA as well. In this material, COHIBA is consistently recognized and lauded as a Cuban cigar of the highest quality and renown, and is frequently identified as the finest and most coveted cigar in the world.

4. In contrast, the same search disclosed only one mention of the defendants' "Cohiba" cigar in publications of general circulation until September 1994. From September 1994 to defendants' September 1997 launch of a new cigar under the "Cohiba" name, I identified only 29 articles mentioning defendant's "Cohiba", 15 of which mention the Cuban-produced COHIBA as well and, typically, more prominently. *Cigar Aficionado* has paid scant attention to defendants' "Cohiba" and, even its few mentions of defendants' "Cohiba" either have been in articles about Cuban cigars or the Cuban COHIBA, with defendants' claim to the COHIBA trademark being noted only to indicate the legal complexities facing Cubatabaco in selling to the United States, or have been in interviews with defendants' own past or present officials, who focused upon the development of the cigar ultimately launched in September 1997 rather than upon the cigar purportedly sold by defendants under the "Cohiba" name since 1978 and who additionally acknowledged the latter's slight currency ("we have been sitting on it"; "marketing it in a limited way") and lack of distinction ("we don't have a blend and unique taste for that cigar that would be happy with.")

Scope Of Search

5. Our search included a search of the term "Cohiba" in the same article as "cigar" in the "allnws" file in the "news" database of LEXIS/NEXIS. This file includes all English language news sources on the LEXIS/NEXIS database and encompasses almost all major United States publications. I also did an exhaustive review of the resources in the New York Public Library, including their book and magazine collections and I consulted several indices of periodicals there. This library search included research in the holdings of the main research library and the branch libraries, including the Science, Industry, and Business Library and the Arents Rare Book Collection, which specializes in cigars and cigar smoking. I reviewed every issue of *Cigar Aficionado*, both in the hard copy and on-line on the Internet. I also reviewed over a dozen books concerning cigars which were purchased from Barnes and Noble, the Strand Bookstore and several cigar shops in New York during the last year. Additional sources of information are noted in the course of this declaration.

6. I have prepared three volumes of exhibits to this declaration but, I have been advised by counsel for plaintiff, they are not being submitted at this time because they are so voluminous. They are available for submission at the Court's request. However, four particular articles setting out interviews with the defendants' officers and employees, past and present, are attached hereto. Volume I (in two parts) of the exhibits, entitled, "*Cigar Aficionado: Articles Concerning COHIBA*", consists of articles and other material published in *Cigar Aficionado* in which there is reference to the term "Cohiba" (whether it be the Cuban COHIBA or the Dominican "Cohiba"). Also included in this volume are several printouts from the *Cigar Aficionado* Internet web site. I have collated all of these documents by issue, so that all articles from the same issue

follow the same exhibit tab. Volume II entitled, "COHIBA in Publications of General Circulation," consists of (i) the LEXIS/NEXIS citation list of articles in which the terms "Cohiba" and "cigar" were found in the same article and (ii) a full text print out of all articles retrieved through LEXIS/NEXIS which are specifically referred to in this Declaration and several additional magazine and newspaper articles specifically referred to in this Declaration. Volume III is entitled "COHIBA: Books and Television" and consists of the books I reviewed as well as the text of transcripts of television shows referring to Cohiba which I have identified. Included in Volume III are copies of several other miscellaneous materials referred to in this Declaration.

COHIBA's Preeminent and Ubiquitous Presence in *Cigar Aficionado*

7. *Cigar Aficionado* is the leading publication among premium cigar smokers and it has been generally credited with the resurgence of the premium cigar market in the United States. A glossy quarterly published in New York City, it now has a regular circulation exceeding 400,000, far more than any other magazine devoted to cigars, and is sold by subscription and at newsstands, bookstores, cigar stores, and other retail outlets. See Paul Jeffers & Kevin Gordon, *The Good Cigar* 40-41 (Lyons & Burford, New York 1996) (Vol. III, Exh. 7); Sonia Weiss, *The Cigar Enthusiast* 134-35 (Berkley Books, New York 1997) (Vol. III, Exh. 11); Barnaby Conrad III, *The Cigar* 16-17 (Chronicle Books, San Francisco 1996) (Vol. III, Exh. 5); Peter Carlson, "Huffing and Puffery; The Cigars, Raised to Epic Proportions," *The Washington Post*, Dec. 17, 1996, at C7 (Vol. II, Exh. 6).

8. General Cigar Company has acknowledged the importance of *Cigar Aficionado* in the resurgence of the premium cigar industry in the United States. In the Second Amendment to their Registration Statement filed with the Securities and Exchange Commission on May 12, 1997, General Cigar Company explained the cigar industry's resurgence in the following terms:

General Cigar believes that this increase in cigar consumption and retail sales is the result of a number of factors, including: (i) the improving image of cigar smoking resulting from increased publicity, including the success of CIGAR AFICIONADO and SMOKE magazines and the increased visibility of cigar smoking by celebrities (such as Arnold Schwarzenegger, Mel Gibson, Demi Moore and Jack Nicholson); (ii) the emergence of an expanding base of younger, highly educated, affluent adults age 25 to 35 and the growing interest of this group in luxury goods, including premium cigars; (iii) the increase in the number of adults over the age of 40 (a demographic group believed to smoke more cigars than any other demographic group); and (iv) the proliferation of establishments, such as restaurants and clubs, where cigar smoking is encouraged, as well as "cigar smokers" dinners and other special events for cigar smokers.

(Vol. III, Exh. 19.)

9. COHIBA cigars have been prominently and consistently featured in *Cigar Aficionado*, beginning with the magazine's very first issue and continuing literally in every issue thereafter. COHIBA has been mentioned in at least 149 articles in *Cigar Aficionado* since the quarterly began publication in 1992, and additional times in taste tests and numerous photographs.

10. In the premier issue of *Cigar Aficionado* (Autumn 1992), the lead article was about COHIBA. It is entitled, "The Legend of Cohiba: Cigar Lovers Everywhere Dream of Cuba's Finest Cigar". The cover headline for the story is "Cuba's Best Cigar" and the table of contents includes a photo of a COHIBA and states that the article is "An inside look at Cuba's legendary brand, perhaps the world's finest smoke." The article itself is six full pages long and includes color photographs of and concerning the COHIBA cigar. (Vol. I, Exh. 1, at 6.)

11. Acknowledging the already existing and extraordinary fame of COHIBA, the article states that, "Cohiba is legendary to most cigar aficionados, and for more than two decades, it has been one of the government's most prestigious gifts to honor foreign dignitaries." The article

describes the COHIBA as one "of the best cigars available on the market." (Vol. I, Exh. 1, at 42.) It states, "Lighting up a Cohiba . . . is a great experience." The article further states that "To a cigar lover, smoking a Cohiba is a moment to savor. It gives the same kind of satisfaction as a wonderful glass of Château Lafite-Rothschild does to a wine lover or a superb main course at a Michelin three-star restaurant does to a gourmet." (Id.)

12. The article recounts the history of the COHIBA repeated again and again in publications about cigars. In the 1960s, according to the article, President Fidel Castro became enamored of a cigar made by a friend for one of his bodyguards and commissioned its production, for his personal use and to give as gifts to visiting heads-of-state and other dignitaries. Ultimately, "what was once considered the smoke of world leaders became the cigar of the world cognoscenti." (Id.)

13. The article observed, "Cuba may not embrace the ways of capitalism, but her Cohiba cigars are clearly symbols of financial success. Actors such as Tom Cruise and Arnold Schwarzenegger have standing orders with London and Geneva cigar merchants for Cohiba while business magnates such as Lee Iaccoca have been known to light up Cohibas after a successful deal." (Id.)

14. The article also includes an interview with Avelino Lara, the creator of COHIBA. Lara is quoted as saying, "Tobacco is part of Cuban culture, and Cohiba is the best cigar made in Cuba." (Vol. I, Exh. 1, at 49.)

15. In addition to the main article on COHIBA, the premier issue of *Cigar Aficionado* made repeated additional references to the COHIBA cigar. Thus, immediately following the article on the COHIBA is an interview with U.S. film-maker Ridley Scott, the subtitle of which

states: "Ridley Scott, Cohiba In Hand, Directs Gérard Depardieu in 1492". (Vol. I, Exh. 1, at 52.)

Another article in the same issue evaluates the robusto size of cigars and prominently features the COHIBA. (Vol. I, Exh. 1, at 28.) In a blind taste test of robusto cigars, the COHIBA earned the highest score of 96 out of a possible 100. The review stated, "What more can we say about the cigar that put this size on the map? The Cohiba Robusto is mouth-filling with rich coffee, spicy flavors and an impressively long finish." (Vol. I, Exh. 1, at 30.) A full-page color ad for COHIBA, appearing in the midst of this editorial praise of the cigar, proclaims COHIBA to be "the first name in cigars". (Vol. I, Exh. 1, at 37.)

16. The cover of the summer 1994 issue is a large color photograph of President Castro with a COHIBA cigar, and the issue features an interview with President Castro. (Vol. I, Exh. 8, at 46.) In his Editor's Note column in that issue, Marvin R. Shanken, the Editor and Publisher of *Cigar Aficionado*, describes his anticipation in meeting President Castro. The column includes a half-page color photo of Shanken, President Castro and interpreter in conversation with President Castro reviewing the first issue of *Cigar Aficionado* and an open box of COHIBA cigars in the foreground. (Vol. I, Exh. 8, at 14.)

17. The interview, entitled "A Conversation with Fidel" spans twelve full pages of the magazine. It opens with a two-page photo of the interview with Shanken holding a COHIBA while President Castro listens intently to the interpreter. During the course of the interview, Shanken and President Castro discuss the history of the COHIBA as well as the cigar's high quality and worldwide reputation. In this interview, President Castro recounted the familiar story of how he personally was involved in the creation of the COHIBA cigar and explained that the cigar was named COHIBA because it "was the name the native Indians gave to cigars."

18. Throughout the remainder of the issue, COHIBA is featured prominently. In an article entitled "Not the Real Thing: Counterfeits of the Top Cuban Cigar Brands are Flooding the World Market", the author, James Suckling, describes his efforts to purchase COHIBA cigars on the black market in Havana, only to be cheated. Suckling observes that, "Currently, Cohiba represents the majority of counterfeit cigars traded around the world due to the incredible demand and high prices." He continues by noting that, "Other cigar producers might secretly relish the idea of having a similar problem, but most other premium-cigar brands just don't have Cohiba's consumer sex appeal." The article also includes several color photographs of real and fake COHIBA cigars next to each other. (Vol. I, Exh. 8, at 85.)

19. In the same issue, COHIBA is also prominently featured in a taste test of corona gorda-size cigars and two cigar advertisements by retailers include COHIBA cigars in their displays. (Vol. I, Exh. 8, at 30, 143, 176-77.)

20. The August 1997 issue of *Cigar Aficionado* also demonstrates the prominence of the COHIBA cigar. On the cover, model Claudia Schiffer is pictured holding a lit COHIBA in her right hand. Also on the cover is the headline "30 Years of Cohiba" for a story inside the magazine which is described in the table of contents as, "The stars of Hollywood may have backed out, but Cohiba got its many happy returns of the day as Fidel Castro showed up to celebrate, with 800 guests, the 30th anniversary of the renowned brand at a formal fete in February at Havana's Tropicana." The six-page article reports on COHIBA's 30th Anniversary event which drew almost 800 cigar lovers to Havana, including about 100 United States citizens who reportedly risked prosecution for violating the travel ban to Cuba. One New York businessman described attendance at the anniversary event as "a chance of a lifetime. I am enjoying every moment of it. It was worth taking the chance." (Vol.

I, Exh. 21, at 141.) This issue, like many others, contains multiple references to and a review of COHIBA cigars.

21. In *Cigar Aficionado*, the Cuban-made COHIBA is repeatedly mentioned by celebrities interviewed by the magazine as their cigar of choice. Thus, Jack Nicholson (Arthur Max, "On His Own Terms: Riding High Atop Hollywood's Star Machine, Jack Nicholson Is Enjoying the View", *Cigar Aficionado*, Summer 1995, at 93, 94) (Vol. I, Exh. 12, at 94); Arnold Schwarzenegger (David Shaw, "The World According to Arnold: Hollywood Superstar Arnold Schwarzenegger Knows What He Wants - And Usually Gets It", *Cigar Aficionado*, Summer 1996, at 134, 141) (Vol. I, Exh. 16, at 141); and Demi Moore (Mervyn Rothstein, "No Apologies No Regrets: From the Roles She Plays to the Cigars She Smokes, Actress Demi Moore Makes Her Own Choices", *Cigar Aficionado*, Autumn 1996, at 150, 171) (Vol. I, Exh. 17, at 171), all smoke COHIBAs.

22. General Cigar has recognized the importance of popular entertainers in enhancing the reputation of cigars. Indeed, it specifically mentioned the cigar-smoking of COHIBA smokers Jack Nicholson, Demi Moore, and Arnold Schwarzenegger in this regard, as quoted in paragraph 6 above.

COHIBA's Prominent and Frequent Mention In Publications of General Circulation

23. Our search of the LEXIS/NEXIS "allnws" file in the "news" database for the terms "Cohiba" and "cigar" in the same article prior to September 1, 1997 (when defendants launched a new cigar under the "COHIBA" name) identified 686 references to the Cuban-made COHIBA cigar, principally in U.S. publications and with the balance in English language publications available to readers in the United States (such as *The Financial Times* and *The Economist*). The United States publications with COHIBA articles included, without limitation, *Time*, *Newsweek*, *U.S. News &*

World Report, Forbes, Business Week, Esquire, Playboy, The New York Times, The Los Angeles Times, The Chicago Sun-Times, The Chicago Tribune, The Boston Globe, The Houston Chronicle, The Dallas Morning News, The Times-Picayune, The St. Louis Post Dispatch, USA Today, The San Francisco Examiner, and The Seattle Times. Often, the same publication has run more than one story mentioning the Cuban-made COHIBA. A full listing of the 686 articles which refer to the COHIBA cigar is attached at Vol. II, Exh. 50.

24. Although identifying 686 articles concerning the Cuban-made COHIBA, our search necessarily was under-representative. The LEXIS/NEXIS database is limited in that issues prior to 1980 are not available for all but a few publications, and, further, issues for most publications are available beginning in only the early 1990s. Moreover, there is no other systematic way of searching for references to COHIBA in publications.

25. For each year from 1983 through August 1997, I list below the number of articles identified by our LEXIS/NEXIS search referring to the Cuban-made COHIBA, identify some of the publications in which the articles were published for that year, and provide a brief summary of one or two of the articles from that year:

1983: Number of Articles: 1
Publications Include: *The Economist*

In a lengthy article on the prospects for the cigar industry, *The Economist* notes Cuba's international commercial launch of the COHIBA at the World Cup in Spain in 1982. ("Cigar-makers smoke out new sales", *The Economist*, Aug. 20, 1983, at 74) (Vol. II, Exh. 33).

1984: Number of Articles: 3
Publications Include: *Time, Newsweek, United Press International*

The lead paragraph of *Newsweek's* article on Jesse Jackson going to Cuba describes President Castro offering Jackson "one of his trademark Cohiba cigars" and Jackson savoring it "with relish". (Mark Starr with Sylvester Monroe, "Jesse Jackson Goes to Cuba", *Newsweek*, July 9, 1984,

at 16) (Vol. II, Exh. 32).

Time magazine's issue on the Summer Olympics opens with "A Letter from the Publisher". In this piece, Publisher John Meyers tells how photographer Neil Leifer traveled to Cuba to photograph the island's star boxer, Teofilo Stevenson, with President Castro holding his arm aloft in a victory salute. The article and accompanying photo noted that Castro's arm was so sore from holding Stevenson's arm in the air that he could barely autograph a souvenir photo for Leifer. Meyers added that Castro's arm "was not too sore, however, to offer Leifer a light for his Cohiba Cuban cigar." (John A. Meyers, "A Letter from the Publisher", *Time*, July 30, 1984, at 2) (Vol. II, Exh. 31).

1985: Number of Articles: 2
 Publications Include: *The Washington Post*, *Financial Times*

In a front page interview with President Castro discussing Cuba's economy and the president's seemingly endless energy, Jim Hoagland of *The Washington Post* takes time to describe Castro as he enjoys a COHIBA: "a small puff of smoke from the Cohiba cigar he toys with hangs for an instant in his beard." (Jim Hoagland, "Castro After Hours (and Hours): Exhaustion and Economics", *The Washington Post*, Feb. 3, 1985, at A1) (Vol. II, Exh. 30).

1986: Number of Articles: 4
 Publications Include: *Time*, *The New York Times*, *Financial Times*

A *Time* magazine article on Chrysler Corporation's plans includes an interview with chairman Lee Iacocca who is "smoking an eight-inch Cohiba cigar given to him by the Italian Minister of Foreign Affairs." ("Thinking Fast and Making Moves; Smart marketing along with lean operations keeps profits flowing, *Time*, Nov. 24, 1986, at 70) (Vol. II, Exh. 28).

1987: Number of Articles: 4
 Publications Include: *Life*, United Press International

Life magazine noted that prior to an anti-smoking campaign in Cuba two years earlier, "President Fidel Castro was rarely seen without a Cohiba cigar . . . clenched between his teeth." (*Life*, Aug. 1987, at 6) (Vol. II, Exh. 27).

1988: Number of Articles: 2
 Publications Include: *Financial Times*, Universal News Services

The *Financial Times* reassures cigar lovers "that there will be a fresh supply of Cohiba cigars, Fidel Castro's own post-revolution creation" in an article on premium cigar brands. (Frank Grey, "New Lease Of Life for Endangered Species", *Financial Times*, Nov. 26, 1988, at XI) (Vol. II, Exh. 26).

1989: Number of Articles: 10
Publications Include: *Chicago Tribune*, *St. Petersburg Times*, *The Record*, Reuters

In a *Chicago Tribune* interview with painter Don Van Vliet, formerly-known as the musical innovator of the 1960s Captain Beefheart, the reader is told that the air in his studio smells "like a Robustos Cohiba". This is due to the fact that it is the cigar Van Vliet is smoking. (Rip Rense, "Today Captain Beefheart Aims to Make the Canvas Sing", *Chicago Tribune*, Jan. 8, 1989, at C3) (Vol. II, Exh. 25).

1990: Numbers of Articles: 10
Publications Include: *The New York Times*, *Los Angeles Times*, *The Boston Globe*

A *New York Times* review of restaurants in Paris describes some of the finer locations for a high-powered business lunch. After the meal, the article states that bankers, insurance men and their clients can talk about financial opportunities to be had in a united Europe in 1992 while "firing up a Cohiba". (A. Craig Copetas, "Mealtime, Dealttime", *The New York Times*, Sept. 23, 1990, § 6, part 2 at 67) (Vol. II, Exh. 23).

"[W]ho else has top-of-the-line Cohiba cigars for three bucks apiece?" the writer rhetorically asks in a *Los Angeles Times* article discussing the positive and negative aspects of visiting Cuba. (John Horn, "The Other Caribbean: Unspoiled Beaches, '50s Cars and Pre-Glasnost Politics Keep Fidel Castro's Island Locked in a Time Capsule," *Los Angeles Times*, June 24, 1990, at L1) (Vol. II, Exh. 24).

1991: Number of Articles: 9
Publications Include: *Forbes*, *USA Today*

The second paragraph of a lengthy *Forbes* cover story on the record industry finds Charles Koppelman, chairman of New York-based SBK Records, very happy as he discusses his success "between puffs on a \$20 Cuban Cohiba cigar." (Peter Newcomb and Christopher Palmeri, "What's not to love", *Forbes*, Sept. 30, 1991, at 108) (Vol. II, Exh. 22).

1992: Number of Articles: 27
Publications Include: *Newsweek*, *Forbes*, *The Washington Post*, *Chicago Tribune*, *The Houston Chronicle*, *The Dallas Morning News*

A *Washington Post* story examines the art of making Cuban cigars. The reporter states that the COHIBA is "considered by many to be the best in the world." While acknowledging the international fame of Cuban cigars, especially COHIBAs, the reporter also observes that over the years, the public image of the Cuban revolution was none other than President Castro, "dressed in fatigues with his trademark beard and Cohiba cigar." (Douglas Farah, "In Smoke-Filled Rooms, Cubans Roll a Good \$24 Cigar", *The Washington Post*, Dec. 14, 1992, at A14) (Vol. II, Exh. 20).

In an expansive 2,500-plus word article in *Forbes* covering all aspects of cigars and their increased popularity in the United States, the writer notes that the "fabled Cohibas are sold in Europe, Canada, Bermuda and parts of the Caribbean, and many find their way into the U.S. suitcases." (Cynthia Penney, "Puff Piece", *Forbes*, Nov. 23, 1992, at 138) (Vol. II, Exh. 21).

1993: Number of Articles: 26
Publications Include: *The New York Times*, *The Washington Post*, *Los Angeles Times*, *Chicago Tribune*, *The San Francisco Chronicle*, *The Times-Picayune*, *St. Louis Post-Dispatch*, *The San Diego Union-Tribune*

An article in the Sunday travel section of *The New York Times* calls the COHIBA "Cuba's best". In the article, tourists are given advice on how to travel to Cuba and the risks and rewards of such a journey. (Peter Passell, "Forbidden Sun, and Sin, Communist Style", *The New York Times*, Nov. 7, 1993, § 6 at 66) (Vol. II, Exh. 19).

1994: Number of Articles: 70
Publications Include: *Forbes*, *Newsweek*, *Business Week*, *Esquire*, *Playboy*, *Town & Country Monthly*, *USA Today*, *The New York Times*, *Los Angeles Times*, *The San Francisco Examiner*

The December *Esquire* has an interview with David Letterman as its cover story. In the article Letterman admits that even though he has stopped smoking them, he "keeps a handsome humidor full of Cuban Cohibas behind his desk and hundreds more at home. 'I desperately miss them,' he confesses, full of regret. 'But, man, I'm telling you something—it's a pleasure I'll go back to one day.'" (Bill Zehme, "Letterman Lets His Guard Down", *Esquire*, Dec. 1994, at 96) (Vol. II, Exh. 16).

1995: Number of Articles: 88
Publications Include: *Business Week*, *People*, *USA Today*, *The New York Times*, *Washington Post*, *Chicago Tribune*, *The Atlanta Journal and Constitution*, *The Houston Chronicle*, *The Boston Globe*, *The Dallas Morning News*, *Newsday*, *Chicago Sun-Times*, *The San Francisco Chronicle*, *The Boston Herald*, *The Times-Picayune*, *The Indianapolis Star*, *The Orlando Sentinel*, *The Palm Beach Post*, *The Indianapolis News*, *The Village Voice*

The COHIBA is prominently placed as the cigar of choice in *The New York Times*' Sunday Magazine article: "THE RICH: How They Spend It; A-Z: What a Lot of Money Can Buy". COHIBAS are described as follows: "When Cuba's leisure class left for Miami, it was widely assumed that all the great cigar makers went too. Not so. The world's most coveted cigars - and the most expensive - are Cohibas, originally produced exclusively for Fidel Castro. They've been commercially available since the early 1980's, selling for about \$25 to \$30 apiece in smoke shops abroad; they regularly find their way back to the United States in the luggage of discerning travelers." (Peter Passell, "THE RICH: How They Spend It; A-Z: What a Lot of Money Can Buy", *The New*

York Times, Nov. 19, 1995, § 6 at 96) (Vol. II, Exh. 12).

1996: Number of Articles: 119
Publications Include: *Fortune*, *Esquire*, *Entertainment Weekly*, *USA Today*, *The New York Times*, *The Washington Post*, *Los Angeles Times*, *Chicago Tribune*, *The San Francisco Chronicle*, *Chicago Sun-Times*, *The Boston Herald*, *Star Tribune* (Minneapolis), *The Sun* (Baltimore), *The Seattle Times*, *The Orange County Register*, *The Village Voice*, *Austin American-Statesman*, *The Times-Picayune*, *The Arizona Republic*, *The San Diego Union-Tribune*, *The Des Moines Register*, *Miami New Times*, *Sun-Sentinel* (Fort Lauderdale)

In article in which then-Congressman Bill Richardson (now U.S. Ambassador to the United Nations) recounts several of his experiences negotiating with foreign leaders, Richardson describes his meeting with Cuban President Fidel Castro, "There was definitely a rapport with Castro over baseball and Latin culture. I spoke with him in Spanish, and he gave me five cigars; he said they were the best — Cohiba." (Justin Martin, "How to Negotiate with Really Tough Guys," *Fortune*, May 27, 1996, at 173) (Vol. II, Exh. 11).

1997: Number of Articles: 310
(thru Aug. 31) Publications Include: *Newsweek*, *Forbes*, *U.S. News & World Report*, *The Economist*, *Business Week*, *People*, *Town & Country Monthly*, *USA Today*, *The Christian Science Monitor*, *The New York Times*, *The Washington Post*, *Los Angeles Times*, *Chicago Tribune*, *The Houston Chronicle*, *The Boston Globe*, *The Atlanta Journal and Constitution*, *The Dallas Morning News*, *St. Louis Dispatch*, *The Plain Dealer*, *The Detroit News*, *Pittsburgh Post-Gazette*, *The Orlando Sentinel*, *The Sun* (Baltimore), *The Times-Picayune*, *The San Diego Union-Tribune*, *The Boston Herald*, *The Denver Post*, *The Orange Country Register*, *The Columbus Dispatch*, *The Buffalo News*.

U.S. News & World Report includes the COHIBA amongst its "fabled forbidden fruits of Havana" in a piece about cigar smuggling in the wake of the national cigar craze. (Jason Vest, "Psst! Want Cheap Cubans?", *U.S. News & World Report*, Apr. 14, 1997, at 63) (Vol. II, Exh. 4).

26. The *Wall Street Journal* and *The Miami Herald* are not in the LEXIS/NEXIS database but they are in the WESTLAW database. A search of the latter database for mentions of COHIBA in those publications disclosed 6 articles in *The Wall Street Journal* and 35 articles in *The Miami Herald*.

27. As noted above, the LEXIS/NEXIS database contains no information about pre-1982 issues of publications in almost all instances, and I have not been able to identify any other

data base for that period. The indices to periodical literature for the pre-1982 period are of limited value since they do not permit a word search. Nonetheless, I was able to locate the following references to COHIBA for the pre-1982 period:

a. The November 15, 1977 issue of *Forbes Magazine* described COHIBA as "Fidel's favorite brand." This reference was made in a full page article discussing the slumping United States cigar industry at the time and discussing the possible impact on the industry should the United States trade embargo on Cuba be lifted. The article noted that while most United States trademarks for Cuban cigars were owned by American firms, the Cohiba name was not. The article is accompanied by a photograph of President Castro with a cigar in his mouth. "Help From Havana: the U.S. cigar industry is in bad odor. Can Cuban tobacco help it relight?" (*Forbes*, Nov. 15, 1977, at 69) (Vol. II, Exh. 38).

b. In the February 6, 1978 issue of *New York Magazine*, Frank Mankiewicz, former press secretary to Robert Kennedy, described his experience with back-channel diplomacy in 1974 when he was given two boxes of Cuban Cohiba cigars in Havana by President Fidel Castro as a gift for Henry Kissinger. (Frank Mankiewicz, "Are Cuban Cigars Worth Smuggling?," *New York Magazine*, Feb. 6, 1978, at 39-41) (Vol. II, Exh. 37).

COHIBA on Television

28. There is no database to my knowledge which would permit a search for references to COHIBA on television. However, it appears that there have been such mentions to the Cuban-made COHIBA. The March 23, 1997 edition of *CBS Sunday Morning* entitled "Forbidden Fruit" was brought to my attention and, as its transcript shows, it featured the COHIBA on the occasion of the cigar's 30th Anniversary celebration in Havana. (Vol. III, Exh. 12.) CNN, transcripts

of at least some of whose broadcasts are included in the LEXIS/NEXIS data base, has featured the Cuban made COHIBA in at least the following broadcasts: a CNN *Moneyline* broadcast of May 31, 1995 (Vol. III, Exh.13); an April 11, 1996 broadcast of CNN *News* (Vol. III, Exh.14); a CNN *Early Prime* broadcast on June 27, 1997 (Vol. III, Exh. 15); a CNN *The World Today* broadcast on Feb. 28, 1997 (Vol. III, Exh.16); and a CNN *Moneyline With Lou Dobbs* on Feb. 17, 1997 (Vol. III, Exh.17).

29. In the 1996 CNN *News* broadcast, CNN reported on the preeminence and high quality of Cuban cigars. When the CNN correspondent Lucia Newman visited a cigar factory in Havana, she observed "It's here that some of the world's finest tobaccos are made, like the Cohiba considered by many the caviar of cigars." (Vol. III, Exh. 14).

30. In the 1997 CNN *Early Prime* broadcast, CNN followed American comedian Milton Berle on a nostalgic trip to Cuba, where he first got hooked on cigars 77 years earlier. In a voice over, CNN bureau chief Lucia Newman said, "Cuban cigars are a lot more expensive now, especially the famous 'Cohiba' brand, which Americans can't buy in the United States because of the U.S. embargo on Cuba." She continued by noting, "That hasn't stopped Berle, a self-proclaimed cigar expert, from visiting the Cohiba factory with the outgoing Canadian ambassador to Cuba, who has hosted Mr. and Mrs. Berle's visit to what they consider, cigar heaven." (Vol. III, Exh. 15).

COHIBA's Prominence In Books About Cigars

31. As a review of a dozen books currently or recently on sale at Barnes and Noble, the Strand bookstore, and several cigar shops in all New York, shows, books directed to cigar connoisseurs and the cigar consuming public invariably discuss the distinctive quality and reputation of the Cuban-made COHIBA. There has been a substantial proliferation of these high-quality books

in recent years, paralleling the rise in interest generally in premium cigars. Among the matters reported on, these books typically tell the familiar history of the COHIBA cigar, remark upon COHIBA's fame and renown, and describe COHIBA as one of the foremost premium cigars available. Many of these works also include photographs of various types of COHIBA cigars, the distinctive COHIBA cigar band, or COHIBA packaging.

32. One book, Richard Carleton Hacker's *The Ultimate Cigar Book* describes the COHIBA as follows:

Yes, this is *the* Cigar, the one that was originally reserved only for invited dignitaries to Cuba, and divvied out with great aplomb at select governmental functions. Never was it allowed outside of the Cuban borders, nor was it ever seen at anything other than sanctioned state affairs. Named after the Taino Indian word for "tobacco," Cohiba was created by Che Guevarra (Cuba's first Minister of Industry after the revolution) at the express request of Fidel Castro to produce a cigar that would epitomize everything that the new Cuba was capable of achieving. Only the best tobaccos from the best regions of the Vuelta Abajo were to be used, and only the most skilled of Cuban artisans were to be permitted to cut, bunch and roll its judiciously cured leaves. As a result, the exquisite Cohiba emerged in 1961, one of the very first cigars to be made in the Castro regime. Its success was instantaneous. Word quickly spread among those fortunate enough to have savored its carefully honed, full rich taste, and a legend was born, aided no doubt by the fact that only the very privileged were ever allowed to touch a match to the most delicate and treasured of this rarified treasure from the Vuelto Abajo.

* * *

For cigar connoisseurs the world over, Cohiba's well recognized logo – a black silhouette of an Indian surrounded by an orange and black band with white dots – has come to symbolize the very best that Cuba has to offer.

Richard Carleton Hacker, *The Ultimate Cigar Book* 197-98 (Autumn Gold Publishing, Beverly Hills 1996). (Vol. III, Exh. 4, at 197-98.)

33. *Rudman's Complete Guide to Cigars* states of the COHIBA, in part, as follows:

Considered pride of Havanas. Named after what ancient Taino Indians of Cuba called tobacco. Cohiba are some of the finest cigars available.

Created in 1968 for personal use of Cuban President, Fidel Castro, and for diplomatic gifts. In 1982 production increased to serve world cognoscenti. Unique bright, white and black band recognized symbol of success.

Theo Rudman, *Rudman's Complete Guide to Cigars* 124-26 (Triumph Books, Chicago 1996). (Vol. III, Exh. 8, at 124-26.) Moreover, *Rudman's* gives COHIBA Esplendido, Robustos, Siglo I, Siglo II, Siglo IV, and Siglo V cigars a rating of five stars, the highest possible rating, and describes the Esplendido cigar as "Probably the best of all Churchill-size cigars" and the Robustos cigar as "Probably best of this size." (*Id.* at 125.)

34. *The Art of Fine Cigars* calls COHIBA "famous." John-Manuel Andriote, et al, *The Art of Fine Cigars* 38 (Bulfinch Press, Boston 1996). (Vol. III, Exh. 1, at 38.)

35. Novelist G. Cabrera Infante called the Cuban COHIBA "The Best Cigar In The World" in his 1985 book *Holy Smoke*. John Gross, "Books Of The Times", *The New York Times*, Feb. 7, 1986, at C31. (Vol. III, Exh. 3 at 169, and at Vol. II, Exh. 29.)

36. Anwar Bati & Simon Chase, *The Cigar Companion* 78-79 (Running Press, Philadelphia 1995) states of the COHIBA, "For a brand so young (founded in 1968) in the annals of Havanas, it is remarkable how many myths surround Cohiba." It also described the COHIBA as "fabled" and rates it as "The very best quality available". The full-color cover of the book pictures a COHIBA cigar prominently in the lower center of the cover. (Vol. III, Exh. 2, at 78-79.)

37. H. Paul Jeffers & Kevin Gordon, *The Good Cigar* 195 (Lyons & Burford, New York 1996), defines the term Cohiba as "Cuban tobacco and a prized brand of Cuban cigars." It also

rates all 11 types of COHIBA cigars as "A+", the highest possible rating. (Vol. III, Exh. 7, at 195.)

38. Joel Sherman, *Nat Sherman's A Passion for Cigars: Selecting, Preserving, Smoking and Savoring One Of Life's Greatest Pleasures* 58 (Andrews and McMell, Kansas City 1996) states of the COHIBA, "Though Castro himself quit smoking some years ago, he still dispenses his Cohiba brand to visiting dignitaries. . . . Also part of the reason for its establishment was the legal limbo many of the famous Cuban brands faced in the wake of the trade embargo. Because the proprietorship of those brands was – and still remains – a mystery, Castro figured he needed a brand of his own just in case the others were awarded to Cuban exiles. When it came to marketing cigars, even the Communist revolutionaries knew the benefits of a slick campaign." (Vol. III, Exh. 10, at 58.)

39. Published in 1990, Paul B.K. Garmirian 76-77, *The Gourmet Guide To Cigars*, (Cedar Publications, McLean, Virginia 1990) states of the COHIBA Lanceros cigar, "Placed on the international market in 1983, this was Fidel Castro's own label and it was reserved for dignitaries and distinguished guests on official visits to Cuba. Considered as the pride of Cuban workmanship, it was sold at first only in Spain, Belgium, England and Switzerland." (Vol. III, Exh. 6, at 76-77.) The book also includes photographs of the COHIBA cigar band (at 66) and cigar box (at 91).

40. Barnaby Conrad III, *The Cigar* (Chronicle Books, San Francisco 1996) contains numerous photographs of the COHIBA cigar. (Vol. III, Exh. 5.)

**References to Defendants' "Cohiba" Are Recent, Limited And Principally Appear
In Articles Concerning the Cuban-Made COHIBA**

41. In stark contrast to the frequent mention and prominent attention given to the Cuban-made COHIBA cigar, our search disclosed only limited and recent attention to defendants'

"Cohiba." Further, such attention as defendants' "Cohiba" did receive was because of interest in the Cuban-made COHIBA and the possibilities of defendants' trademark claim posing an obstacle to the marketing of the Cuban-made COHIBA once the United States embargo ends.

42. Contrasting with the at least 149 articles in which COHIBA was mentioned in *Cigar Aficionado*, "Cohiba" was mentioned in only 11 articles in that publication and every one of those articles included a reference to the Cuban COHIBA as well. Further, in contrast with *Cigar Aficionado*'s coverage of the COHIBA, *none* of the 11 articles mentioning the defendants' "Cohiba" discusses that cigar's quality or taste. Moreover, of the 11 articles mentioning the defendants' "Cohiba" (as well as the Cuban-made COHIBA), 5 of the articles simply note that General Cigar owns the rights to the brand name "Cohiba" in the United States; 3 of the articles simply note where the defendants' "Cohiba" may be purchased; 2 of the articles are interviews with the present and past C.E.O.'s of defendants Culbro and General Cigar, who focused upon the development of the cigar ultimately launched in September 1997 rather than upon the cigar purportedly sold by defendants under the "Cohiba" name since 1978 and who additionally acknowledged the latter's slight currency and lack of distinction; and 1 was an interview with a former General Cigar regional manager who explained that General Cigar had registered the "Cohiba" trademark only after, and because, it had learned that the brand President Castro favored for his own personal use and which he gave to visiting dignitaries was named "COHIBA."

43. Thus, the earliest of the *Cigar Aficionado* articles, James Suckling, "The Treasure of the Vuelta Abajo: Cuba's Prime Tobacco Region Still Produces Great Cigars", *Cigar Aficionado*, Winter 1992/3, at 38-39, is a ten page article concerning production of premium Cuban cigars and simply notes that "One company based in New York even has the U.S. trademark for

Cuba's most expensive brand, Cohiba." (Vol. I, Exh. 2, at 38-39.) It does not even mention that cigars by that name are available in the U.S. Similarly, James Suckling, "Not the Real Thing: Counterfeits of the Top Cuban Cigar Brands Are Flooding the World Market", *Cigar Aficionado*, Summer 1994, at 89, noted "General Cigar Co., the United States company with the rights for Cohiba in the American market, is currently pursuing a settlement with [two COHIBA counterfeiters]." (Vol. I, Exh. 8, at 89) The "Cohiba" is referred to in the "Cigar Adviser" section of the Spring 1994 issue of *Cigar Aficionado*, at page 165, where a reader states that he saw boxes with "COHIBA" emblazoned on them in a Dunhill shop in Texas and, "In amazement, I investigated - they are made, I believe, in the Dominican Republic. Are they?" To this, the editor responded that the General Cigar Co. "registered the Cohiba brand name in the United States, and have been test marketing Dominican-Republic-made Cohibas in a few markets." (Vol. I, Exh. 7, at 165.) In an interview with Pedro Perez, the President of Tabacalera, the Spanish Tobacco monopoly and the largest distributor of Cuban tobacco products, Perez was asked about a then-pending but now defunct merger between Tabacalera and General Cigar. Perez noted, "General Cigar also owns Ramon Allones, Cifuentes and Cohiba for the U.S. market." "Interview: Pedro Perez, President, Tabacalera", *Cigar Aficionado*, Winter 1995/96, at 107. (Vol. I, Exh. 14, at 107.) Responding to a letter to the editor inquiring into possible counterfeit COHIBAs from the Dominican Republic, the editor noted, "General Cigar makes a Cohiba for the U.S. market." "The Cigar Advisor", *Cigar Aficionado*, Spring 1996, at 346-47. (Vol. I, Exh. 15, at 346-47.)

44. In "An Interview with Oscar Boruchin: Owner of Licenciados and 8-9-8 Collection Cigars and Proprietor of Mike's Cigars, Miami Beach," *Cigar Aficionado*, March/April 1997, at 68, General Cigar's regional manager in Miami during the Carter Administration (1976-80),

Oscar Boruchin, related that a friend, returning from Cuba during the Carter Presidency, gave Boruchin some of the COHIBAs he had received as gifts from President Castro. The friend told Boruchin that "these are cigars that Fidel smokes that he gives to people that visit him." Being a "loyal employee," Boruchin "sent the bands and a couple of cigars to Edgar Cullman Jr. I told the Cullmans the story that I just told you. And General went ahead and registered the brand." (Exh. A hereto; Vol. I, Exh. 19, at 68.) The records of the United States Patent and Trademark Office show that Culbro filed a registration for COHIBA on March 13, 1978, alleging a first use of the mark in commerce on February 13, 1978 and that U.S. Registration, No. 1, 147,309 for COHIBA issued to Culbro on February 17, 1981.

45. The articles simply mentioning where the defendants' "Cohiba" may be purchased are: "Hotel Bel-Air, Los Angeles", *Cigar Aficionado*, Spring 1996, at 332 (Vol. I, Exh. 15, at 332); Shandana Durrani, "Smokin' USA: In the 1920 There Were Speakeasies. In the 1990s There Are Cigar Lounges", *Cigar Aficionado*, Winter 1996/97, at 422 (Vol. I, Exh. 18, at 422); and "Grand Havana Room - New York City", *Cigar Aficionado*, October 1997, at 401 (Vol. I, Exh. 22, at 401).

46. In the Autumn 1994 issue of *Cigar Aficionado*, Edgar Cullman, Chairman of Culbro Corp., was interviewed by Marvin Shankman. Cullman was asked, "Tell us about how you acquired the American rights to Cohiba, which is widely regarded as the No. 1 brand produced in Cuba?" To this, Cullman responded, "We didn't buy it. We just registered the brand name in February 1981 and began marketing it in a limited way." (Exh. B hereto; Vol. I, Exh. 9, at 66.)

47. Cullman was further asked, "You have been sitting on it. Why have you not promoted it, taken advantage of its universal appeal and great demand?" To which he responded,

"We have been sitting on it; but we can't do all the brands at one time. We make a few Cohibas now." (Exh.B hereto, Vol. I, Exh. 9, at 66.)

48. The interview continued with Cullman being asked, "I understand they are available, but you are not really out in the market in force. Can you speak about the plans you have for Cohiba?" To which he responded, "They are available at special places: Dunhill and a few other places. We have no big plans at the moment. We are looking over what we should do. We are very conscious of the fact that should Cuba open, we want to have a position with Cohiba. What that would be we are not sure today. We will probably do a little more without Cohiba next year. but we haven't formulated all our plans on Cohiba." (Exh. B hereto, Vol. I, Exh. 9, at 66.)

49. In the Autumn 1996 issue of *Cigar Aficionado*, Edgar Cullman, Jr., the successor to his father as President and Chief Executive Officer of Culbro Corp., was interviewed. He was asked, "One obvious question is Cohiba. What are you doing with that? You own the American rights but you haven't done much with it. Why haven't you taken the brand to market and made it a priority given the awareness and consumer demand for the brand?" To this, Cullman, Jr. responded:

Cullman: I think it's a very good question and the answer really lies in the fact that we don't have a blend and a unique taste for that cigar today that we would be happy with. We think it's such a blockbuster brand name that we must come out with something that is equal to the expectation of the brand.

(emphasis added). (Exh. C hereto, Vol. I, Exh. 17, at 108.)

In a press interview at the time of General Cigar's launch of a new cigar under the COHIBA trademark on September 25, 1997, Edgar M. Cullman, Jr. is quoted as follows:

We registered the Cohiba name years ago, but because cigar sales were

in the doldrums, we never really pushed the brand. Now, the cigar industry is experiencing a major comeback, and we think the cachet of the Cohiba name makes it a perfect product for the high-end cigar market" (emphasis supplied).

The Miami Herald (Sept. 24, 1997)(emphasis supplied)(Exh. D hereto).

50. The minimal treatment of defendants' "Cohiba" by *Cigar Aficionado* is graphically underscored by the fact that it was not even mentioned in the magazine's premier issue notwithstanding that that issue featured COHIBA so prominently, as noted. Further there was no mention of "Cohiba" even though, in addition, there was an extensive article entitled "Cigarland: The Dominican Republic Has Become One of the World's Largest Producers of Premium Cigars" which discussed extensively General Cigar's Dominican cigars and operations. Even though the "Cohiba" purportedly has been made in the Dominican Republic by a General Cigar subsidiary, there is no mention of it in the article. (Vol. I, Exh. 1, at 62.) An advertisement taken by General Cigar in that issue for its brands does not mention Cohiba. (Vol. I, Exh. 1, see last 7 pages.) Similarly, an advertisement that appears to have been run by Dominican premium cigar producers that was printed on pages 90 and 91 in the Summer 1995 issue of *Cigar Aficionado* includes a photograph with numerous premium Dominican cigars pictured. (Vol. I, Exh. 12, at 90-91.) Although the cigars include several General Cigar brands, "Cohiba" is not among them.

51. Recently, *Cigar Aficionado* published an article on its Internet website concerning the "Cohiba". That article stated that in 1978, "General began making the cigar in very small quantities, without bands or box art, and sold them exclusively at Alfred Dunhill stores and a few other select retailers. The very existence of a General-made Dominican Cohiba was not well known." (Vol. I, Exh. 24.)

52. In contrast to the 686 references to COHIBA, a search in the "allnws" files of the "news" database for General Cigar's "Cohiba" for the period prior to September 1997 yielded only 30 articles referring to that cigar. With the exception of one article prior to 1993 in the *Seattle Times* (Emmett Watson, "PC Can't Extinguish Cigar Lovers," *The Seattle Times*, Oct. 7, 1993, at B2 (Vol. II, Exh. 46)), none of these articles appeared before September 1994. Of the 30 articles, 15 of these also concerned plaintiff's COHIBA, and of these 15, all in one fashion or another placed primary focus on the plaintiff's COHIBA rather than General Cigar's "Cohiba" and acknowledged the fame of the Cuban COHIBA but not the defendants' "Cohiba." Moreover, only one of the 30 articles commented on the characteristics or quality of defendants' "Cohiba."

53. Thus, Larry Light, "The Name Game Over Havanas", *Business Week*, May 19, 1997, at 6, notes that "Cohiba [was] made legendary as Fidel Castro's favorite brand" and that "General Cigar . . . sells just a small quantity of non-Cuban Cohibas". (Vol. II, Exh. 2.) Eva Rodriquez & T.R. Goldman, "Eyeing End of Cuban Embargo", *Legal Times*, Sept. 12, 1994, at 5 opines that lifting of the embargo on Cuba would not necessarily harm United States producers because "the U.S. rights to most brand names of well-known Cuban cigars - including Cohiba, Partagas, and Monte Cristo - are actually owned by U.S. companies, so Cuban manufacturers would have to market their products under brand names unfamiliar to U.S. smokers."). (Vol. II, Exh. 18.) To the same effect is Eva Rodriquez & T.R. Goldman, "U.S. Lobbyists Begin Eyeing Cuban Market", *Texas Lawyer*, Sept. 19, 1994, at 5 (lifting of embargo on Cuba would not necessarily harm United States producers because "The U.S. rights to most brand names of well-known Cuban cigars - including Cohiba, Partagas, and Monte Cristo - are actually owned by U.S. companies, so Cuban manufacturers would have to market their products under brand names unfamiliar to U.S. smokers.").

(Vol. II, Exh. 17.) Other articles report on the trademark dispute over the name COHIBA. Pamela Falk, "Fighting Over Cuban Cigar Trademarks," *Legal Times*, Apr. 21, 1997, at 19 (Vol. II, Exh. 47); "Marketing watch in Latin America," *EIU Business Latin America*, May 25, 1997 (Vol II, Exh. 48).

54. Paul Reid, "The Ultimate Cigar", *The Palm Beach Post*, Apr. 27, 1997, at 1D, notes that "Cuba makes the ultimate premium cigar - Cohiba". The article further states that "A cigar craze without Cohibas is like Oscar night without the gold statue" and "The trade ban has bestowed upon Cohibas a mysterious, alluring, cult status. Like the biblical forbidden fruit, they are the most craved smoke in a cigar lover's paradise." (Vol. II, Exh. 3.) In contrast, this article simply notes of General Cigar's "Cohiba", "General Cigar owns the Cohiba name in the United States and produces a Cohiba line in the Dominican Republic." It continues, however, "Only Cuban Cohibas say Havana on the label and come in a cedar box sealed with a Cuban tax stamp."

55. Similarly, in "Richardson Denies Carrying Contraband", *The Hill*, Aug. 14, 1996, at 8, it was reported that Congressman Bill Richardson denied that he was carrying a Cuban COHIBA and instead stated that the cigar in his shirt pocket was actually a Davidoff. A local cigar merchant noted, however, that "Cohiba does have a Dominican version" but that it was "not made by Davidoff". (Vol. II, Exh. 10.)

56. Likewise, Rod Stafford Hagwood, "Puff Piece; Cigar Smokers Are Not Just Blowing Smoke These Days - Restaurants Cater To Them, And They Even Have Their Own Club", *Sun-Sentinel (Fort Lauderdale)*, July 1, 1995, an article on the popularity of cigar smoking, notes that "A Dominican Cohibas is about \$5, but a Cuban Cohiba is \$25. (Vol. II, Exh. 13). Jim Burke, "Cigar lovers light up on special cruise", *The Boston Herald*, June 4, 1995, at 72, notes "Montecristos, Dunhills and the \$25 apiece Cohibas are being imported but from the Dominican Republic, Jamaica

and Honduras as Cuban Cigars are still embargoed." (Vol. II, Exh. 14.) In David Osborne "American yuppies savour the aroma of a backlash; Smoking / the luxury cigar craze", *The Independent (London)*, Apr. 16, 1995, at 16, the author writes "Inside [the New York Cigar Bar's humidor] are Montecristos, vintage Dunhills and - at \$25 apiece - Cohibas. All are imported, but from the Dominican Republic, Jamaica and Honduras. Cuban Cigars are embargoed." (Vol. II, Exh. 15.)

57. Ten of the articles referencing the defendants' "Cohiba" without also discussing the Cuban COHIBA simply note the availability of the Dominican "Cohiba" at a particular establishment. Joe Bob Briggs, "Let Smokers Have 23% of the Restaurants," *The Chattanooga Times*, Mar. 7, 1995, at B6 (New York's Cigar Bar sells Cohibas) (Vol. II, Exh. 41); Robin Kamen, "Women Lighten Up; Cigar Smoking Among Female Execs Spreads as Firms Woo a New Audience," *Crain's New York Business*, Aug. 28, 1995, at 3 ("Dunhill Cohiba" available New York's Cigar Bar for \$30.00) (Vol. II, Exh. 42); Hal Marcovitz, "Cigar Shop Is Catering To The Young," *The Morning Call (Allentown)*, Feb. 10, 1997, at B1 ("Dominican Cohiba" available at a local cigar store) (Vol. II, Exh. 5); Margo Kaufman, "Cigar Stink; Arrested Development; Sure We Know They're Trendy But That Doesn't Excuse Bad Air and Bad Manners", *Los Angeles Times*, Sept. 29, 1996, Magazine at 18 (noting that author was given a complimentary "Dominican Cohiba" at a cigar bar) (Vol. II, Exh. 7). Five of the articles come from the same publication and note that complimentary "Cohibas" are available as part of a liquor tasting: Christine Arpe Gang, "Peach crop puny; apples feel bite", *The Commercial Appeal (Memphis)*, Aug. 14, 1996, at 2C (participants in tequila tasting will also receive a "Dominican Cohiba") (Vol. II, Exh. 8); Christine Arpe Gang, "A La Carte", *The Commercial Appeal*, June 12, 1996, at 4C (noting that participants in tasting of single malt scotches will receive "a Cohiba Dominican cigar") (Vol. II, Exh. 9); Christine Arpe Gang, "A La Carte," *The Commercial*

Appeal, Oct. 9, 1996, at 2C, (smoker and spirits tasting includes Cohiba cigar) (Vol. II, Exh. 43); Christine Arpe Gang, "A La Carte", *The Commercial Appeal*, Sept. 25, 1996, at 3C (available with scotch tasting) (Vol. II Exh. 44); Christine Arpe Gang, "A La Carte", *The Commercial Appeal*, Feb. 21, 1996, at 4C ((available with Cognac tasting) (Vol II, Exh. 45). One article reported on General Cigar's ownership of the United States rights to the name "Cohiba". Elliott Blair Smith, "Puffing at a Premium: The cigar's popularity burns brightly, but the lack of product might quench the flame", *The Orange County Register*, May 22, 1997, at C01 (discusses the increased demand for premium cigars in the United States and the business opportunities associated with it; in a chart discussing General Cigar's initial public offering, "Cohiba" is listed as one of that company's brand names). (Vol. II, Exh. 1.) One article reports on General Cigar's anticipated advertising campaign for its launch of the "Cohiba". "More Smoke," *Delaney Report*, Aug. 4, 1997. (Vol. II, Exh. 49.) (Our search additionally disclosed six press releases posted by a retailer (Vol. II, Exh. 34); three articles where the reference was too abbreviated to be able to determine whether the COHIBA or General Cigar's "Cohiba" was involved; and one reference in the *IPO Reporter* when General Cigar offered its stock to the public) (Vol. II, Exh. 36).

58. My search in the WESTLAW databases for references to the defendants' "Cohiba" in the *Wall Street Journal* identified no references to the "Cohiba". My search in the WESTLAW databases for references to the "Cohiba" in the *Miami Herald* identified only two recent articles, in contrast to the 35 articles referencing the Cuban COHIBA. One of those articles, entitled "New Business", notes that the recently opened Long Ashes Cigar Co. on South Dixie Highway sells Cohiba cigars. "New Business," *Miami Herald*, June 29, 1997, at KE18. (Vol. II, Exh. 39.) The second article, Juan Tamayo, "Cuba Files Rum and Cigar Trademark Challenges in U.S.," *Miami*

Herald, May 15, 1997, at 24A, reports on COHIBA's challenge to General Cigar's registration of the trademark. (Vol. II, Exh. 39.)

59. In contrast to the Cuban COHIBA, which is referred to in all 10 of the recently published books which I reviewed, the defendants' "Cohiba" is only mentioned in five. Additionally, while the Cuban COHIBA was characterized in highly laudatory terms, the books commenting on the defendants' "Cohiba" for the most part note that it is available only on a limited basis and make little mention of its quality.

60. Thus, although the 1990 book by Paul B.K. Garmirian, *The Gourmet Guide To Cigars*, (Cedar Publications, McLean, Virginia 1990), contains an entire section entitled "The Variety of Cigars In The United States", it does not include any mention of the "Cohiba". (Vol. III, Exh. 6, at 101.)

61. *The Cigar Companion* states of the defendants' "Cohiba", "Cohibas made in the Dominican Republic can be found in a few American cigar stores. They bear no resemblance to the cigars above [the Cuban COHIBA], but reflect an adroit move by General Cigar to register the name in the U.S. early in the 1980s. When the day of the repeal of the U.S./Cuban trade embargo finally dawns, contrary to the belief of many, Cohibas and virtually all other Havana brands will not flood onto the shelves of American cigar merchants. Instead, lawyers will rub their hands with glee as the battle to untangle one of the world's most complex trademark issues begins." at 79. (Vol. III, Exh. 2, at 79.)

62. *Rudman's Complete Guide to Cigars*, published in 1995, describes the "Cohiba" as "Hand-made, by General Cigar. Not yet widely available. Same name as flagship brand name in Cuba. Dominican version unbanded." The "Cohiba" is not rated by *Rudman's*. (Vol. III,

Exh. 8.)

63. In Richard Hacker Carleton, *The Ultimate Cigar Book* 199 (Autumngold Publishing, Beverly Hills, CA 1996), the author notes of the "Cohiba", "[i]n 1993 this cigar was introduced to U.S. cigar smokers via the Alfred Dunhill stores on a limited basis. This marked the first time that the Cohiba brand was made available in the United States (even the Cuban brand was not publicly sold until 1981, well after the embargo)". (Vol. III, Exh. 4, at 199.)

64. Jeffers & Gordon, *The Good Cigar* 87 (Lyons & Burford, New York 1996), rates three types of General Cigar's "Cohiba", giving each an "A-". (Vol. III, Exh. 7, at 87.)

65. Joel Sherman, *Nat Sherman's A Passion for Cigars: Selecting, Preserving, Smoking and Savoring One Of Life's Greatest Pleasures* 29, 86 (Andrews and McMell, Kansas City 1996) mentions the "Cohiba" on two occasions. On page 29 it noted that "confusion reigns" because of Cuban and non-Cuban cigars of the same name, including Cohiba. It also identified the "Cohiba" Corona Especial as a type of Lonsdale cigar. *Id.* at 86. (Vol. III, Exh. 10, at 29, 86.)

66. Although it does not specifically mention the "Cohiba", in Marvin Shanken, *Cigar Aficionado's World of Cigars* 35 (Running Press and M. Shanken Communications, New York 1996), that book noted that "[o]ne company based in New York even has the U.S. trademark for Cuba's most prestigious brand, Cohiba". (Vol. III, Exh. 9, at 35.)

Statements by Defendants Concerning Their COHIBA

67. As noted, *ante*, both Edgar Cullman and Edgar Cullman Jr., successive C.E.O.'s of Culbro, acknowledged in their respective interviews with *Cigar Aficionado* magazine that sales of "Cohiba" cigars were "limited" and that General Cigar had been "sitting" on the brand. Thus, Edgar Cullman was asked in 1994, "You have been sitting on [the "Cohiba" name]. Why have you

not promoted it, taken advantage of its universal appeal and great demand?" To this, Cullman responded, "We have been sitting on it; but we can't do all the brands at one time. We make a few Cohibas now." (Vol. I, Exh. 9, at 66.)

68. To the same effect is General Cigar's recent announcement accompanying the launch of a new version of the "Cohiba" cigar. General Cigar's website on the Internet, www.cigarworld.com, reported the launch of the "Cohiba" on September 25, 1997 and, in a press release of that date, General Cigar stated "General cigar company, which has owned U.S. rights to the brand since 1978, has marketed a differently blended Cohiba brand on a limited basis since that time." Another page on the website stated: "General Cigar's earlier version of the Cohiba brand was sold through limited channels, and was available only to select customers." (Vol. III, Exh. 21.)

69. Other sources also note that the "Cohiba" cigar has only been available on a limited basis. Thus, Richard Hacker Carleton, *The Ultimate Cigar Book* 199 (Autumngold Publishing, Beverly Hills, CA 1996), noted that "[i]n 1993[the 'Cohiba'] was introduced to U.S. cigar smokers via the Alfred Dunhill stores on a limited basis. This marked the first time that the Cohiba brand was made available in the United States (even the Cuban brand was not publicly sold until 1981, well after the embargo)". (Vol. III, Exh. 4, at 199.) Similarly, *Rudman's Complete Guide To Cigars*, described the "Cohiba" as "Not yet widely available" in 1995. Theo Rudman, *Rudman's Complete Guide to Cigars* 124-26 (Triumph Books, Chicago 1996). (Vol. III, Exh. 8, at 124-26.)

70. Review of Culbro's Annual Reports for the years 1979 to 1985 reveals that although Culbro registered the trademark "Cohiba" with the United States Patent and Trademark Office in 1978, the first reference to the "Cohiba" brand in Culbro's Annual Reports was for the year 1982. "Cohiba" was then mentioned in Culbro's annual reports for 1983 and 1984, but not for 1985.

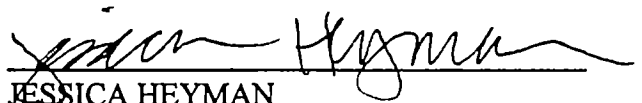
(Vol. III, Exh. 20.) When mentioned, "Cohiba" was simply one among a listing of General Cigar's brands. There was no mention of the sales of the brand or General Cigar's plans for it. A review of Culbro's publicly filed reports in the "SEC" library of the LEXIS/NEXIS database demonstrates that "Cohiba" was not mentioned in Annual Reports for the years 1987 through 1992, but that it was mentioned beginning with Culbro's 1993 Annual Report. Culbro, which until General Cigar's recent initial public offering was the corporate parent of General Cigar, continues to own over 75% of General Cigar's outstanding stock. (Vol. III, Exh. 19.)

71. More recently, in public filings related to General Cigar's initial public offering, General Cigar has noted that "General Cigar also owns the rights to market cigars in the U.S. under the names Cohiba and Bolivar." General Cigar, Amendment No. 2 to Form S-4, filed with the SEC on May 12, 1997. The filings do not, however, make note of actual sales of the "Cohiba" or actual use of that name. (Vol. III, Exh. 19) . In the Amendment to Form S-4 (Vol. III, Exh. 19), General Cigar stated that:

Many of General Cigar's premium cigar brand names are of Cuban origin. General Cigar acquired some of these brand names from their Cuban owners in the aftermath of Castro's revolution and registered others with the U.S. Patent and Trademark Office.

72. There was no listing of "Cohiba" in the annual *Tobacco Retailers Almanac* for the years 1978 to 1984, or 1986 to 1991 even though other General Cigar brands were mentioned. "Cohiba" was listed in 1985. (Vol. III, Exh. 18.)

Executed this 21st day of November, 1997 in New York City, New York.


JESSICA HEYMAN

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 39)

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 40)

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 41)

REDACTED

REDACTED

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 56)

The Begelman Spectacular: Enter Judy Garland

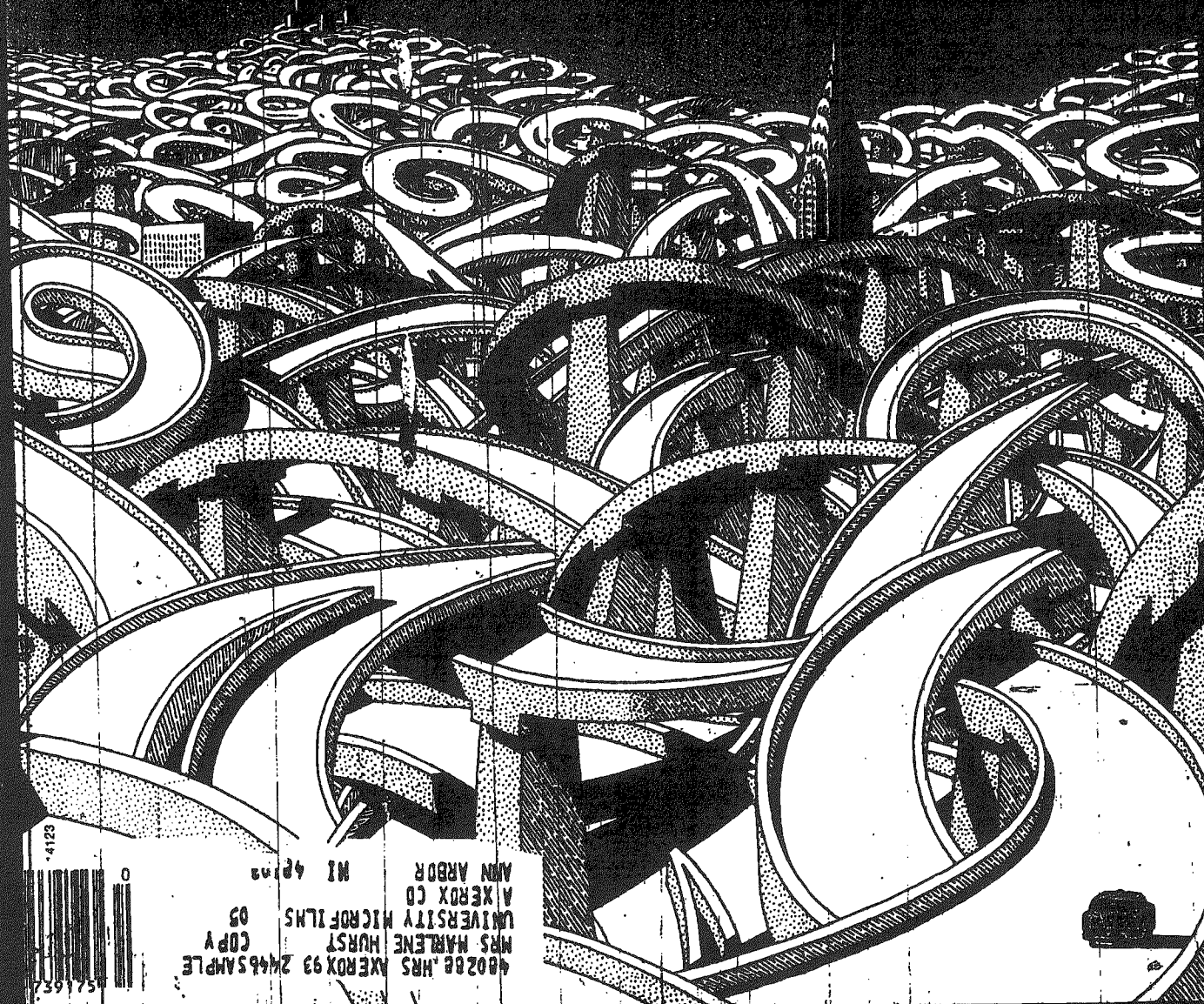
Frank Mankiewicz on Smuggling Cuban Cigars

ONE DOLLAR

FEBRUARY 6, 1978

NEW YORK

How Westway Will Destroy New York
An Interview With Jane Jacobs



400266 MRS. HURST
MRS. MARLENE HURST
UNIVERSITY MICROFILMS
SERIALS ACQUISITION
ANN ARBOR MI 48102

Are Cuban Cigars Worth Smuggling?



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LAW (TITLE 17, U.S.C.)

By Frank Mankiewicz

"... All over this country, cigar smokers are sending checks to Switzerland. What comes back is the McCoy-Havana cigars ..."

Late in the afternoon of February 2, 1962, President John F. Kennedy summoned his press secretary to the Oval Office. "Pierre," he asked, "do you think you can round up 1,000 Petit Upmanns by ten o'clock tomorrow morning?" Pierre Salinger had been given tougher assignments, but few stranger ones. He could probably get the cigars, he thought, but why did the president need them?

The next morning Salinger told Kennedy the 1,000 Havanas, ordered from all over the country, were on the way. "Thanks, Pierre," said the president of the United States, who then, with a

flourish, signed the proclamation embargoing all trade between Cuba and the United States.

The story has the ring of truth: Kennedy would not have hesitated to use his advance knowledge to stock up on the precious commodity. The story is also illustrative of the state of American foreign policy; Kennedy was a moderate smoker—one imagines that he thought the embargo would last only a few years. No one, least of all President Kennedy, would have doubted Pierre Salinger's ability to come up with a few thousand more if the occasion demanded it.

Yet since that day in 1962, not one Cuban cigar has been sold—legally—in the United States; moreover, not until last year was any Cuban cigar brought into the country legally, even if purchased legally abroad.

Because of the recent thaw in Cuban-American relations, an American returning from abroad—including Cuba itself—may bring up to \$100 worth of goods of "Cuban origin" through U.S. Customs. At current prices in Havana, that means about 100 top-quality cigars.

Even prior to 1977, the State Department permitted travel to Cuba, for the Supreme Court has decided that the

"... 'What are those?' asked the friendly Customs inspector. 'Those,' I said, 'are cigars given me this morning by Fidel Castro'..."

government can neither prohibit travel nor penalize it after the fact, although it can warn Americans against it. But the ban on Cuban goods remained in effect and was lifted only rarely. In 1974 I traveled with a film crew to Cuba and conducted a thirteen-hour interview with Fidel Castro. We returned through the Baltimore airport, where the Customs inspectors looked at every camera, light, and box of film, as well as the baggage of the whole crew. Among my own baggage were two large, rather ornate wooden boxes of Castro's own brand of cigars, given me that very morning in Havana.

They were too large to conceal, and that policy did not appeal to me anyway. So I put them under my arm and sauntered through the line. "What are those?" asked the friendly inspector. "Oh," I said, "those are cigars." "From Cuba?" "Yes," I said, "they were given me this morning by Fidel Castro, as a gift for Henry Kissinger. But if they are illegal, please take them" (this last accompanied by a glance at his name tag). Thus it was that Dr. Kissinger acquired a box (but only one) of Cohiba specials (the brand is used only for the "máximo líder" himself

and for his guests), which I hope he shared, in moderation, with his friends.

Serious cigar smokers have never allowed an embargo to prevent them from obtaining a supply of the genuine article. Some of that supply, of course, like President Kennedy's, was laid in before the blockade. Some aficionados manage to cadge cigars from travelers returned from the Pearl of the Antilles; some buy more than the legal quota in Canada or England and bring them back concealed in socks, underwear, or Tampax wrappers; and some carefully replace the identifying band from each cigar bought overseas with bands from legal cigars.

And some receive packages marked "Unsolicited gift—value less than \$10" on a regular basis from two tobaccoists in Geneva who mail cigars around the world, but especially to the United States.

All over this great land, particularly in New York and Los Angeles, thousands of cigar smokers are communicating regularly with Geneva, sometimes by letters of request, sometimes by check. What comes back is the McCoy, genuine Havana cigars—Upmann and Montecristo, Partagas and Hoyó de

Monterrey—in plain boxes, with the bands removed.

This trade, under the blockade, has been substantial. The Swiss are not known for fancying Cuban tobacco; yet, of 125 million cigars sold for export last year in Cuba, Switzerland took approximately 12 percent of the market. Since West Germany, for example, accounted for only about 3 percent, one can well believe that Americans last year illegally imported something like 10 million Cuban cigars—and presumably did so each year of the blockade before that.

Why does all this go on? Why are cigar smokers so agreed that there is no cigar like a Cuban cigar? Why is the argument over the best always confined to a comparison of the merits of this or that brand of Havana? In short, why is it almost impossible to find a smoker who will not agree that there are two kinds of cigars in the world—Cuban and all the others?

First of all, it must be understood that when one speaks of a "Cuban" cigar, one is talking about a cigar manufactured in Cuba for export. Only about 25 percent of the cigars produced on the island are exported, and they are the ones that have earned—and continue to earn—the priceless reputation. The 300 million cigars turned out for Cuban domestic consumption—the White Owls of the Caribbean, as it were—do nothing to enhance the prestige of the Cuban cigar.

The figures are instructive. Cuban tobacco officials estimate an annual worldwide production of 25 billion cigars. Most of these are cheap and small, but they qualify as cigars. Spain, for example, manufactures 500 million cigars each year, and 450 million are made in the Canary Islands. Some of the latter—Ramón Allones, Upmann, Montecristo—have the same names as Havana brands. These are produced by the original owners of those firms, who fled the island with their expertise and some tobacco seeds when Castro expropriated the tobacco plantations.

Why is Cuban-grown tobacco the best? The answer most frequently found is a version of the one given in Zino Davidoff's *Connoisseur's Book of the Cigar*: "All great smokers discovered long ago the irreplaceable virtues of this magic island: its geology, wind, water, its miraculous soil."

Gaston Montes León, the director of one of the six cigar factories in Havana, gave six reasons for the suprem-



acy of Cuban cigars. First, he said, there is the climate. The tobacco ferments naturally in Cuba; elsewhere this process is often artificial. If another area, such as Jamaica, has the same climate, it lacks the soil. If the soil is similar somewhere, the days of sun and the temperature will be different. Second, he cited the skill of Cuban cigar makers. Third, he told me, the soil of the fabled "Vuelta Abajo," a portion of the province of Pinar del Río, is the best soil in the world for growing tobacco which will continue to grow and "work" even after it has been stored, cured, cut, wrapped, packed, and boxed.

Fourth, methods of manufacture are better because they are handed down from father to son. Fifth, there's the force of history—"centuries of excellence." His sixth reason was "*amor*—we look on a cigar as we would a woman; we do not mistreat her." (This romantic analogy is a favorite of cigar lovers. Davidoff writes: "I discovered Cuba's perfume and her sensual warmth as an immature adolescent discovers an ardent, knowledgeable woman.")

The cigar is not mistreated; that much seems to be true. In a visit last year, it seemed clear to me that at every stage of the creation of the export cigars there was enormous respect for the product.

The leaves begin as a dark green and lighten as they grow. Oddly, the greener—lighter, more *claro*—the cigar desired, the earlier the leaf will be cut. For a darker, more mature cigar, the plant must live longer. The leaves are then cut and dried, either by sunlight or by a special fire—again, to obtain the lighter-colored cigar—and then piled under cloths for the fermentation. After months of storage, experts divide the leaves into wrappers (the best leaves) and filler, and within those categories by color, size, and thickness.

Then, the first phase of the manufacture begins, in a large room where the spine of the leaf is removed. This is a job historically performed by women, but divisions of labor by sex are disappearing fast in Cuba, and nowhere more than in cigar manufacture. There are men who do this job now, and there are women who cut, trim, fill, and shape the cigar itself—once the exclusive preserve of male workers. That father-to-son tradition cited by Montes León is almost purely figurative now; it has been replaced by father-to-daughter, and one imagines that mother-to-daughter will be along in a generation or so. Nearly 60 percent of the cigar-factory employees are now women.

The cigar makers still sit side by side at benches in a large workroom, cutting,

Smokers' Choice

Name the ten best Cuban cigars, we asked a panel of puffers who have been savoring them for decades. I can't, each of them said, but I can tell you what I like. And, it turned out, they all liked Montecristo (in Switzerland, No. 1's are \$53 the box of 25). Also Romeo y Julieta (Churchills are \$74.50 a box in Switzerland). Three of our four experts chose H. Upmann (Lonsdales are \$53 the box of 25 in Switzerland); two favored Hoyo de Monterrey Bourbons (between \$35 and \$60 a box in Switzerland), and one liked Por Larranaga Lolas en Cedros (\$25.50 a box in Switzerland). Pierre Salinger's favorite: Punch P's (\$35 a box in Switzerland). Dunhill's in Montreal and Toronto sells some of these, at considerably higher prices.

filling, rolling, sealing, selecting, and placing by size and color. The ancient tradition of the morning and afternoon "education breaks" in which educators mount the stage in front of the workers and read aloud from great drama and literature, has been continued. But now, a spokesman from the Communist party or the Committee for the Defense of the Revolution will also assign community or factory tasks, explain important articles in the party's morning newspaper, *Granma*, or perhaps read the text of a speech by one of the members of the Central Committee.

Politics is everywhere. Sections of the workroom are divided into "brigades," competing in productivity under the banner of a "Hero of the Revolution." When I was there, the Allende Brigade was in the lead, those named for Lenin and for the Puerto Rican nationalist Albizu, close behind.

There are some machines. In the factory I visited, I was proudly shown an AMF sorter, cutter, and filler made in Trenton in 1951, still functioning at close to its original capacity. But in this factory, the Montecristos and the Romeo y Julietas were all made by hand. The machines turned out the local products.

From the large workroom, the cigars are hand-carried to a larger, quieter room, where they are sorted by shape and color and then boxed and packaged after the band and label have been affixed. Then they are sealed, the wrapper-guarantee of the Cuban government is attached, and they are stored, ready for shipment.

Jaime Más, director of the state cigar trust, will be in charge of the Cuban cigar export to the United States if and

when the embargo is lifted (he does not foresee this happening soon). Más thinks the embargo may even have been a kind of blessing to the cigar industry. Before 1962, 64 percent of all the cigars, and 76 percent of their dollar value, went to the United States. In 1959 that meant an American market of 45 million cigars, out of 70 million produced for export.

The embargo forced Cuba to find alternative markets, while it forced Americans to find other high-priced cigars to import. Jamaica, Honduras, and the Canary Islands have taken up the slack here, each taking about 25 percent of the high-priced-cigar market. Más thinks it is significant that no country's cigar has dominated the American scene, and it makes him believe that Cuba can retake a large share once trade resumes. "We will be back to 80 percent in a few years," he predicts, "for one good reason—quality." It is hard to argue with him.

As of now, Más isn't sure just how Cuba will market the cigars in America. There will be trouble, he acknowledges, with some of the trademarks. He is aware that a New York court has held that the trademark is the property of the individual, in this case the individual who fled Cuba and is now producing cigars elsewhere. He thinks the law of that case may prevail and that the government of Cuba may be restrained from marketing cigars—at least in the United States—under some of the old and honored brand names.

But, he points out, the government now manufactures, for export, 26 different trademarks embracing 900 different *tipos* of cigar, based on size. Thus an Upmann can be a Churchill (the largest size) or something smaller. A Montecristo can be No. 1 (the largest) through No. 5. Many of those marks and size designations, Más believes, will survive.

And even if they do not, the man in charge of recapturing the U.S. market is unperturbed. "We have the unassailable trademark," Más says, "the one which says 'Havana' or 'Made in Cuba,' and that is the only one we need." He has a point. After all, as he says, "did anyone, anywhere, ever say of a successful man, 'That man must be powerful and important—he smokes a cigar from the Canary Islands?'" *Havanas, puros*, Cuban cigars—whatever they are called—are the world standard, says Jaime Más, and they will remain so. No company, he says with a grin, would spend money to make a cigar that looks as if it were made of Sumatran filler with a wrapper from Connecticut.

He's got us there.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 59)

REDACTED

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 60)

REDACTED

REDACTED

REDACTED

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 63)

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 65)

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 66)

Culbro-TM-3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE EXAMINER OF TRADEMARKS

MARK: COHIBA

CLASS NO.: 34

To the Commissioner of Patents and Trademarks:

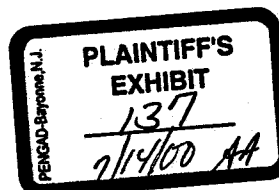
Culbro Corporation, a New York corporation
605 Third Avenue, New York, New York 10016
Situs: 605 Third Avenue, New York, New York 10016

The above identified applicant has adopted and is using the trademark shown in the accompanying drawing for CIGARS and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946.

The trademark was first used on the goods on February 13, 1978; was first used in interstate commerce on February 13, 1978; and is now in use in such commerce.

The mark is used by applying it to labels applied to the containers for the goods and five specimens showing the mark as actually used are presented herewith.

Applicant hereby appoints the firm of Morgan, Finnegan, Pine, Foley & Lee, 345 Park Avenue, New York, New York 10022, a firm composed of George B. Finnegan, Jr., Granville M. Pine, John D. Foley, Jerome G. Lee, Thomas P. Dowling, John A. Diaz, Warren H. Rotert, John C. Vassil, Alfred P. Ewert, David H. Pfeffer, Harry C. Marcus, Robert E. Paulson, George P. Hoare, Jr.,



GC 006230

Thomas M. Gibson, Edward A. Hedman, Stephen R. Smith, J. Robert Dailey and Kurt E. Richter, all members of the bar of the State of New York, as its attorneys to prosecute this application to register, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the certificate of registration.

Henry D. Whitehill declares: that he is Vice President-Secretary of applicant corporation and is authorized to execute this application on behalf of said corporation; that he believes said corporation to be the owner of the mark sought to be registered; that to the best of his knowledge and belief no other person, firm, corporation, or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as may be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, (18 U.S.C. 1001), and may jeopardize the validity of the application or document or any registration resulting therefrom.

CULBRO CORPORATION

by: Henry D. Whitehill
Henry D. Whitehill
Vice President - Secretary

Date: March 9, 1978

Applicant: Culbro Corporation
a New York Corporation

Address: 605 Third Avenue, New York, N.Y. 10016

Goods: CIGARS

Date of First Use: February 13, 1978

COHIBA

COHIBA

GC 006232

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 67)

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1. REG. NO. 1147309		3. 15 17		4. SER. NO. 161879	
2. Registration Date FEB 17 1981				5. Examiner	
6. INTERNATIONAL CLASS 34		7. PRIOR U.S. CLASS 17		8. FILING DATE 03/13/78	
				9. SERIAL NUMBER 161879	
10. APPLICANT AND POST OFFICE CULBRO CORPORATION 605 3RD AVE. NEW YORK, NEW YORK 10016 NEW YORK CORP.				16. EXAMINER 16. CHAPMAN BETH ANNE D. C. Reimer	
				17. TYPE OF MARK TRADEMARK	
				18. FIRST USE ICL 034 02/13/1978	
11. SEND CORRESPONDENCE TO Morgan & Finnegan 345 Park Ave. New York, NY 10154				19. IN COMMERCE ICL 034 02/13/1978	
12					
13					
MO.					
14. ASSOCIATE ATTORNEY					
15. GOODS-SERVICES 034-CIGARS					
PTO-36-3 (REV. 5-77) (FORMERLY PTO-102L) U.S. DEPT. OF COMMERCE-PATENT AND TRADEMARK OFFICE (6-77)					
21. Other Data					
22. AMENDED	PRINCIPAL REGISTER			25. Supervisory Examiner	
				26. Examiner	
				D. C. Reimer	
23. AFFIDAVIT	Section 8 <i>McVelett</i>			27. Passed for Publication <i>David C. Reimer</i>	
	Section 15			28. Passed for Registration	
	Section 12C			29. O.G. Date	
24. RENEWAL	Passed for Renewal			PUBLISHED NOV 4 1980	
	Renewed From			PUBLISHED OCT 26 1980	
<input type="checkbox"/> Less Goods					

161879

Applicant: Culbro Corporation
a New York Corporation
Address: 605 Third Avenue, New York, N.Y. 10016
Goods: CIGARS
Date of First Use: February 13, 1973

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COHIBA

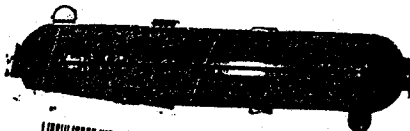


PUBLISHED
NOV 4 1980

1147309
REGISTERED
FEB 17 1981
PAT. & T.M. OFFICE

PUBLISHED
OCT 28 1980

3078



FILING DATE
03/13/1978

REGISTRATION #
1147309

CLASS

34

CONTENTS:

Application..... papers.

1. 25 JUL 1978
2. *Letter + Encl* 3/79
3. 14 MAR 1979
4. *Letter, Exhibits* Sept 17/79
5. *Petition to Revoke* Sept 26, 1979
6. *Petition Granted* Jan 16, 1980 ✓
7. N OF
8. SECTION 8 & 15 JUL 16 1980
9. *Amubrief 25659*
10.
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GEORGE B. FINNEGAN, JR.
GRANVILLE M. PINE
JOHN D. FOLEY
JEROME G. LEE
THOMAS P. DOWLING
WARREN H. ROTERT
JOHN A. DIAZ
JOHN C. VASSIL
ALFRED P. EWERT
DAVID H. PFEFFER
HARRY C. MARCUS
ROBERT E. PAULSON
GEORGE P. MOARE, JR.
THOMAS M. OIBSON
EDWARD A. MEDMAN
STEPHEN R. SMITH
KURT E. RICHTER
J. ROBERT DAILEY

JAMES P. WELCH
EUGENE MOROZ
JAMES V. COSTIGAN
ROCCO S. BARRESE
ARNOLD I. RADY
JOHN L. WELCH
JOHN F. SWEENEY
CHRISTOPHER A. HUGHES
WILLIAM S. FEILER
RICHARD E. BENNETT
RICHARD J. MAZZA
BARTHOLOMEW VERDIRAME
JANET DORE
WILLIAM H. DIPPERT
VINCENT J. VASTA, JR.
THOMAS M. HAMMOND
RICHARD C. KIMSON
ANTHONY AMARAL, JR.

MORGAN, FINNEGAN, PINE, FOLEY & LEE

ATTORNEYS AT LAW

345 PARK AVENUE

NEW YORK, NEW YORK 10022

JOHN D. MORGAN

1893-1939

HOBART N. DURHAM

1930-1969

CABLE FINDURPINE NEW YORK

TEL. (212) 758-4600

TELEX: 421792

March 13, 1978

Hon. Commissioner of Patents
and Trademarks
Washington, D. C. 20231

Re: New Application of Trademark
COHIBA - Our Ref: Culbro-TM-3

Sir:

Enclosed please find application for registration
of the trademark COHIBA in the name of Culbro Corporation,
together with one (1) sheet of drawing, five (5) specimens,
and our check in the amount of \$35.00 in payment of the
filing fee.

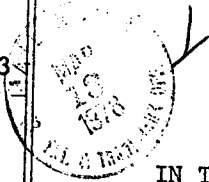
It is requested that this application be given a
serial number and filing date.

Respectfully submitted,

Harry C. Marcus
Harry C. Marcus

HCM:jim
Enclosures

Culbro-TM-3



35,00 201 Tm

161879

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE EXAMINER OF TRADEMARKS

MARK: COHIBA

CLASS NO.: 34

To the Commissioner of Patents and Trademarks:

6 03
7 NY
NY
Culbro Corporation, a New York corporation

605 Third Avenue, New York, New York 10016

Situs: 605 Third Avenue, New York, New York 10016

The above identified applicant has adopted and is using the trademark shown in the accompanying drawing for CIGARS and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946.

The trademark was first used on the goods on February 13, 1978; was first used in interstate commerce on February 13, 1978; and is now in use in such commerce.

The mark is used by applying it to labels applied to the containers for the goods and five specimens showing the mark as actually used are presented herewith.

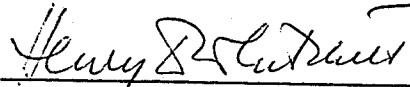
1 NY
Applicant hereby appoints the firm of Morgan, Finnegan, Pine, Foley & Lee, 345 Park Avenue, New York, New York 10022 a firm composed of George B. Finnegan, Jr., Granville M. Pine, John D. Foley, Jerome G. Lee, Thomas P. Dowling, John A. Diaz, Warren H. Rotert, John C. Vassil, Alfred P. Ewert, David H. Pfeffer, Harry C. Marcus, Robert E. Paulson, George P. Hoare, Jr.,
03/15/78 161879 1 201 35.00CK

Thomas M. Gibson, Edward A. Hedman, Stephen R. Smith, J. Robert Dailey and Kurt E. Richter, all members of the bar of the State of New York, as its attorneys to prosecute this application to register, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the certificate of registration.

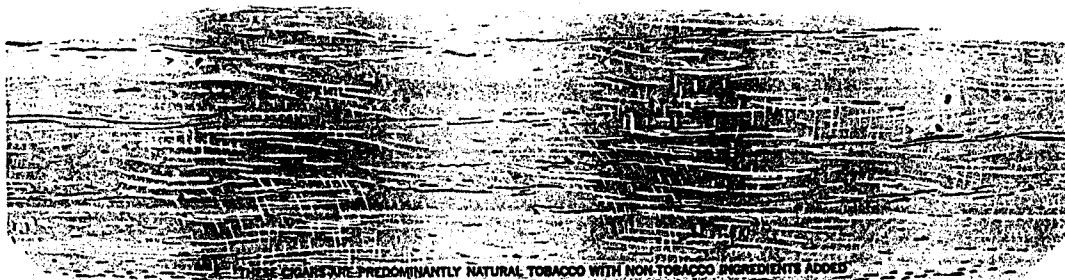
Henry D. Whitehill declares: that he is Vice President-Secretary of applicant corporation and is authorized to execute this application on behalf of said corporation; that he believes said corporation to be the owner of the mark sought to be registered; that to the best of his knowledge and belief no other person, firm, corporation, or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as may be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, (18 U.S.C. 1001), and may jeopardize the validity of the application or document or any registration resulting therefrom.

CULBRO CORPORATION

by:


Henry D. Whitehill
Vice President - Secretary

Date: March 9, 1978



THESE CIGARS ARE PREDOMINANTLY NATURAL TOBACCO WITH NON-TOBACCO INGREDIENTS ADDED



50 Cigars

General Cigar & Tobacco Co.
Division of Culbro Corp.
605 Third Avenue
New York, N. Y. 10016



IN REPLY REFER TO THE FOLLOWING AND THE FILING DATE:

**U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office**

1. SER. NO. 161879	2. MARK COHIBA	ADDRESS COMMISSIONER OF PATENTS AND TRADEMARKS WASHINGTON D. C. 20231 AND FURNISH YOUR ZIP CODE AND TELEPHONE NUMBER IN ALL CORRESPONDENCE	5. PAPER NO.
3. APPLICANT CULBRO CORPORATION			6. MAILING DATE 25 JUL 1978
4. ADDRESS MORGAN, FINNEGAN, PINE, FOLLY & LEE 345 PARK AVE. NEW YORK, NEW YORK 10022			

FORM PTO 36-33 (REV. 12-76) (FORMERLY PTO-1293) U.S. DEPT. OF COMM. Pat & TM Office

Applicant is advised that an application is pending in this Office for the registration of a mark which so resembles applicant's mark as to be likely, as used in connection with the goods and/or services, to cause confusion, or to cause mistake, or to deceive. Since the filing date of the instant application is subsequent to the filing date of the other pending application, the latter, if and when it matures into a registration, will be cited against the instant application. Trademark Rule 2.83. A photocopy of the drawing from the pending application, Serial No. 155,418, as filed in the Trademark Search Room, is attached.

The specimens of record do not show compliance with Title 26, Section 270-214 of the Code of Federal Regulations in that the tax class, quantity, and designation "cigar" have not been indicated on the labels. Applicant must either furnish new specimens or a statement of compliance with the above mentioned regulation. Trademark Rule 2.69; TMEP Section 901.

Inquiry is made as to whether the term "Cohiba" has any meaning or significance in the relevant trade or industry. Trademark Rule 2.61(b).

An English translation of all foreign words in the mark on the drawing should be set forth. TMEP Section 906. ✓

A search of the Office records fails to show that the mark, when applied to applicant's goods and/or services, so resembles any registered mark as to be likely to cause confusion, or to cause mistake, or to deceive. TMEP Section 1105.01. ✓

B. Chapman:1mt 703 557-3273

Beth Chapman
Examiner, Div. I

A proper response to THIS OFFICE action must be received within 6 months from the date of this action in order to avoid ABANDONMENT.

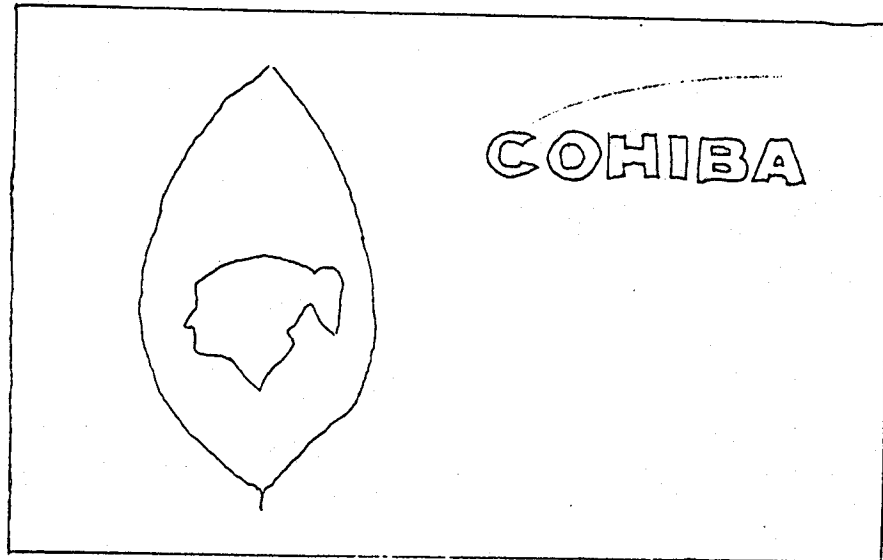
INT. CL.	34
PRIOR U.S. CL.	17

155418

BENEFICIAL CAPITAL CORP.
645 FIFTH AVENUE, NEW YORK, N.Y. 10022

DATES OF USE: DECEMBER 15, 1977

GOODS: CIGARS



abandoned 10/31/78

4



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK EXAMINING OPERATIONS

Applicant: Culbro Corporation
Serial No.: 161,879 ✓
Filed: March 13, 1978
Mark: COHIBA
Class: 34

January 3, 1979

RESPONSE

Hon. Commissioner of Patents
and Trademarks
Washington, D. C. 20231

Attention: B. A. Chapman, Examiner - Division I

Sir:

This is in response to the Official Action of July 25, 1978 in connection with the above-identified application.

Inquiry has been made as to applicant's compliance with the labeling requirements of the Code of Federal Regulations. Applicant is and has been in compliance with the Federal Regulations regarding labeling of products bearing the mark COHIBA. Such compliance is shown by the label specimen accompanying this response which is used on all containers of the product in conjunction with the labels bearing the mark COHIBA heretofore made of record in this application.

Question has also been raised as to the meaning and significance, if any, of the term "Cohiba". To the best of applicant's knowledge, the term "Cohiba" has no English translation, or any meaning or significance in the relevant trade or industry.

DO NOT
PRINT
22

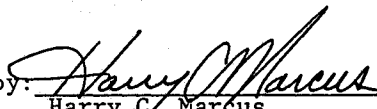
albro-TM-3

Applicant notes the copendency of application Serial No. 155,418 for the mark COHIBA and Design, and that the said application will be cited against this application if and when the former matures into a registration. Applicant will address that matter at the appropriate time.

Respectfully submitted,

MORGAN, FINNEGAN, PINE, FOLEY & LEE

by:


Harry C. Marcus
Reg. No. 22,390
Attorneys for Registrant
345 Park Avenue
New York, New York 10022
(212) 758-4800



U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

IN REPLY REFER TO THE FOLLOWING AND THE FILING DATE:

1. SER. NO.
1. SER. NO.
161879

2. MARK
2. MARK
COHIBA

3. APPLICANT
CULBRO CORPORATION

4. ADDRESS

MORGAN, FINNEGAN, PINE, FOLEY & LEE
345 PARK AVE.
NEW YORK, NEW YORK 10022

ADDRESS
COMMISSIONER OF PATENTS
AND TRADEMARKS
WASHINGTON D. C. 20231
AND
FURNISH YOUR ZIP CODE
AND TELEPHONE
NUMBER IN ALL
CORRESPONDENCE

5. PAPER NO.

3

6. MAILING DATE

4 MAR 1979

FORM PTO 36-33 (REV. 12-76) (FORMERLY PTO-1293) U.S. DEPT. OF COMM. Pat & TM Office

Responsive to communication filed January 3, 1979.

The cited pending application is still pending in this Office.

The label submitted does not show compliance with the requirement of the code of Federal Regulations in that it does not state the tax class.

It has come to the Examiners attention that cohiba is a geographical tobacco growing region of Cuba. In view thereof, if the goods originate from cohiba, Cuba, then registration is refused on the Principal Register because the mark, when applied to the goods and/or services, is considered to be merely descriptive thereof. Section 2(e)(1) of the Trademark Act; TMEP Section 1207.

If the goods do not originate from Cohiba, Cuba, then registration is refused on the ground that the mark is considered to consist of or comprise deceptive matter. Section 2(a) of the Trademark Act; TMEP Section 1202.02.

See In re Charles S Loeb Pipe Inc., 190 USPQ 238.

*Withdrawn
10/31/78
Could find no information
on the mark as to
geographical or goods
meanings. ECR*

BC:ta

Beth Chapman
Beth Chapman
Trademark Attorney, Div. I
703-557-3273

A proper response to THIS OFFICE action must be received within 6 months from the date of this action in order to avoid ABANDONMENT.

SEPT. 17, 1979

TM 4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK EXAMINING OPERATIONS

Applicant: Culbro Corporation ✓
Serial No.: 161,879 ✓
Filed: March 13, 1978 ✓
Mark: COHIBA
Class: 34

September 14, 1979

RESPONSE

Honorable Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Attention: Beth A. Chapman, Trademark Attorney
Division I

SIR:

The Office Action dated March 14, 1979 has been received and its contents carefully noted. For the following reasons, Applicant respectfully disagrees with the action taken and requests that the refusal to register be withdrawn.

The Examiner has refused registration on the ground that the mark, when applied to the goods, is primarily geographically descriptive thereof. The Examiner has apparently reached

this conclusion only because of the existence of a region in Cuba named Cohiba.

Applicant advises that the cigars to which the mark is affixed are produced in the United States and not in Cohiba, Cuba. Consequently, the mark cannot be said to be geographically descriptive and refusal to register on this ground should be withdrawn.

The Examiner has taken the position, however, that registration should be refused even if the goods do not come from Cohiba, as the mark would comprise deceptive matter, citing Section 2(a) of the Act and In re Charles S. Loeb Pipes, Inc., 190 U.S.P.Q. 238 (T.T.A.B. 1975). Applicant respectfully disagrees.

As the case cited by the Examiner indicates, there is no absolute prohibition against registration of a geographic term. The employment of the phrase "primarily geographically descriptive" in the Lanham Act:

"serves to permit registration of a geographic term so long as it is not primarily of that character. That is, it is not the intent of the present statute to refuse registration of a mark where the geographic meaning is minor or obscure and would not be known to the average purchaser of the goods." (emphasis added) In re Charles S. Loeb Pipes, Inc., 190 U.S.P.Q. 238, 243 (T.T.A.B. 1975).

See also, World Carpet, Inc. v. Dick Littrell's New World Carpets, 438 F. 2d 482, 168 U.S.P.Q. 609 (5th Cir. 1971) ("The word 'primarily' should not be overlooked"); Ex parte London Gramophone Corp., 98 U.S.P.Q. 362 (Pat. Off. Ex. Ch. 1953) (A term may not be refused registration under the Lanham Act solely because it may have some geographical meaning, however minor, obscure or remote).

If a geographical term is used in an arbitrary or fictitious manner, it is registrable. Hyde Park Clothes, Inc. v. Hyde Park Fashions, Inc., 93 U.S.P.Q. 250 (S.D.N.Y. 1951) aff'd, 204 F. 2d 223, 97 U.S.P.Q. 246 (2nd Cir. 1953); La Touraine Coffee Co. v. Lorraine Coffee Co., 157 F. 2d 115, 70 U.S.P.Q. 429 (2nd Cir. 1946).

In determining the applicability of Section 2(e)(2) to a particular mark, it must be ascertained whether the term in fact conveys primarily or immediately a geographical significance to consumers. In re Charles S. Loeb Pipes, Inc., supra, at 244; In re Amerise, 160 U.S.P.Q. 687, 691 (T.T.A.B. 1969). See also, In re RJR Foods, Inc., 189 U.S.P.Q. 622, 623 (T.T.A.B. 1976).

The Examiner has cited no basis for concluding that COHIBA meets the legal test stated above, and we submit, none exists. There is no evidence to suggest that the ordinary American cigar consumer is even aware of the existence of an area of Cuba called Cohiba, let alone that upon seeing the Latin-sounding mark COHIBA on a cigar, he would primarily view the name as a geographical description of the place of origin of the product. Indeed, all the evidence points the other way.

As we are all aware, especially the cigar consumer, the United States government imposed an embargo on all trade and travel with Cuba in 1962. Since that time, some 17 years have elapsed in which there have been no cigars or other tobacco products imported from Cuba. Contacts between United States citizens and the island of Cuba have been similarly

restricted.

In view of the trade embargo as well as the prohibition against travel between the United States and Cuba, the average consumer is unlikely to be familiar with the various small towns, cities or regions of Cuba, with the possible exception of Havana. Consequently, there is no basis for concluding that a consumer in the United States would attribute any geographic significance to the term COHIBA.*

Even if a particular cigar consumer were aware of an area called Cohiba in Cuba, he is still unlikely to view the name as anything more than a fanciful and arbitrary trademark for a cigar. Certainly, the mark will not immediately strike him as being a description of the product's geographical origin, absent which there is no deception. This is so for three very important reasons.

First, as a result of the long standing embargo on trade with Cuba, cigar consumers in the United States expect that the cigars they purchase can come from almost any place but Cuba. Thus, a purchaser of COHIBA brand cigars would not be deceived by the mark into thinking that the subject cigars were produced in Cuba.

Where consumers of goods "have become conditioned over the years not to expect the goods to originate from the

*This is particularly so in view of the fact that Cohiba cannot even be located in any of three different Atlases checked by Applicant. E.g. The New York Times Atlas of the World (1977 ed.); The Hammond World Atlas (1975 ed.) Rand McNally Premier World Atlas (1971 ed.).

place identified by the mark" registration will not be refused. In re Charles S. Loeb Pipes, Inc., supra, at 244. Cf., In re Sweden Freezer Mfg. Co., 159 U.S.P.Q. 246, 249 (T.T.A.B. 1968) (Evidence showing that only nominal amounts of the subject goods were imported from Sweden indicates that the use of SWEDEN mark is not likely to deceive purchasers).

Second, it is the practice of the tobacco industry to use Latin-sounding names as trademarks for cigars. This practice is quite common and well known, as can be seen from an examination of any issue of the Tobacco Retailer's Almanac. For illustration, Applicant attaches pages 46-47 of the 1978 Tobacco Retailer's Almanac (Exhibit A.) Because this is a familiar practice, the primary impact or impression of the mark COHIBA used on cigars is not likely to be that of a geographical location. Cf., In re Amerise, supra, (practice of selling American made spaghetti sauce, tomato paste, etc. under Italian names renders it unlikely that consumers will be deceived as to the origin of goods marked ITALIAN MAIDE): In re RJR Foods, Inc., supra ("HAWAIIAN MAID has connotations other than that of origin in Hawaii, and mark is therefore registrable.)

Finally, the term Cohiba, in the Spanish language, is a conjugation of the verb "Cohibir" which, when translated into English, means "To restrain, to repress, to inhibit, to cohibit" See, e.g. The University of Chicago Spanish-English, English-Spanish Dictionary (Washington Square Press, 1971 ed.); Velazquez Spanish & English Language Dictionary (Wilcox & Follett Co. 1943). When applied to cigars such a term is wholly arbitrary and would not convey a geographic connotation to the purchasing public.

For the foregoing reasons, applicant submits that the primary significance of COHIBA is not geographical and that the mark is neither primarily geographically descriptive nor deceptively misdescriptive.* Accordingly, it is requested that the Examiner withdraw the refusal to register.

As to the Examiner's position that the specimen of record does not show compliance with "the requirement of the code of Federal Regulations in that it does not state the tax class," applicant submits that the specimen provided with the application does comply with the present labeling requirements.

For the Examiner's convenience, applicant has attached a copy of the most recent version of 27 C.F.R. §270.214 (Exhibit B). As can be seen from §270.214, those portions of Title 27 dealing with cigar taxes have been amended. Among these amendments is the elimination of the old tax class system and the adoption of a new labeling requirement calling for the substitution of the wholesale price of the cigars for the old tax class. However, as can be seen from subsection (d) of §270.214, the requirement that the wholesale price be marked on cigar packages has been suspended pending further study by the Bureau of Alcohol, Tobacco and Firearms.

The Tobacco Advisor of the Bureau has confirmed that the previous tax class system has been superseded and is no longer effective. The Tobacco Advisor of the Bureau further advises that the suspension of the new labeling requirement is

*Having shown that the subject mark is not geographically deceptively misdescriptive under Section 2(e) of the Act, it follows that the mark is not deceptive under Section 2(a) of the Act.

still in effect and that until such time as the suspension is lifted, cigar packages are required only to show the designation "cigars," the quantity of cigars and the name and address of the manufacturer. Since the specimen of record complies with these interim requirements, applicant submits that it is unnecessary to provide the Examiner with a substitute specimen.

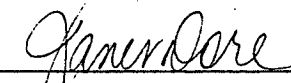
Applicant notes that Application Serial No. 155,418 is still pending before the Patent and Trademark office. Applicant will address itself to this matter if and when the copending application matures into a registration and is cited against the instant application.

In view of the above, it is respectfully requested that the application be passed to publication.

Respectfully submitted,

MORGAN, FINNEGAN, PINE, FOLEY
& LEE

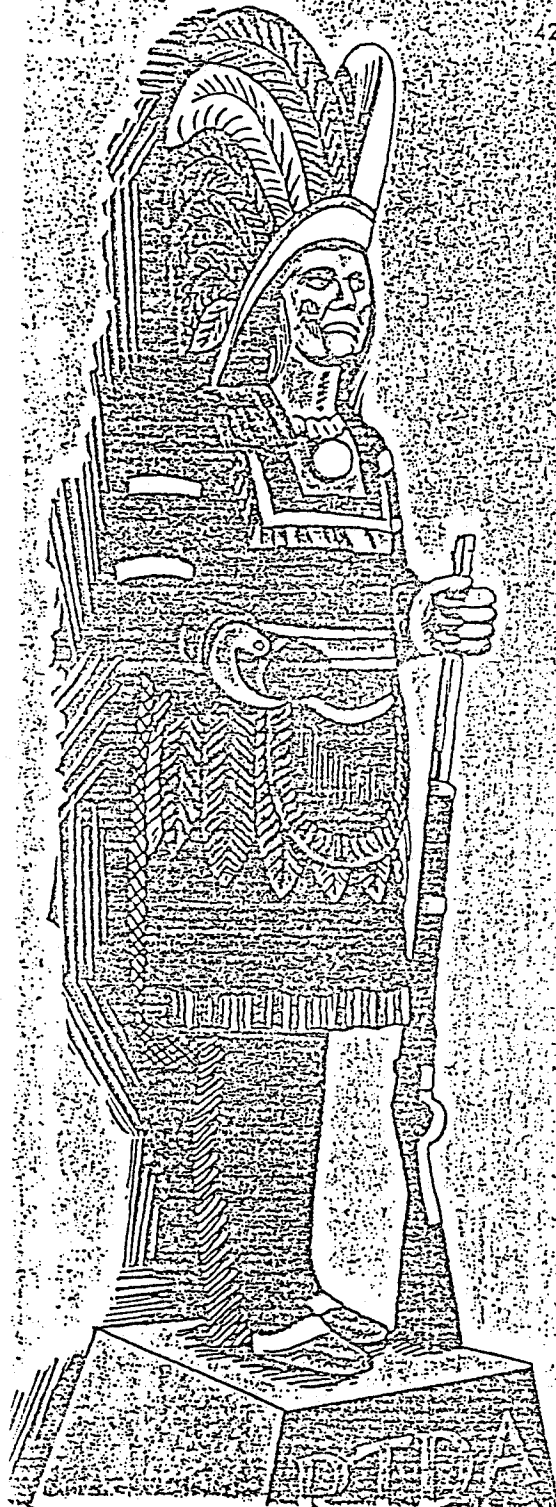
By

 ✓

Janet Dore
Attorneys for Applicant
345 Park Avenue
New York, New York 10022
212-758-4800

TOBACCO RETAILERS' ALMANAC

42nd EDITION



1978
Annual Directory
to tobacco,
candy and sundries

RETAIL TOBACCO DEALER
OF AMERICA, INC.

THE RETAILERS' DIRECTORY

INDEX OF CIGAR BRANDS

(The key number identifies the manufacturers as listed on Pages 48-90)

ADIPATI	(33)	CHERRY CIGAR	(48)	1886	(14)
AGIO	(60)	CIMA	(12)	EL BESO	(40)
AIRPORT	(31)	CITY CLUB	(25)	EL COLOSO	(46)
ALHAMBRA	(7)	COLOMBO	(37)	EL MACCO	(51)
ALL	(30)	COLTS BY OLD PORT	(68)	EL PRODUCTO	(14)
ANKARA	(30)	CORINA	(29)	EL TORO	(25)
ANTONIO y CLEOPATRA	(1)	COUNT CHRISTOPHER	(16)	EL TRELLES	(22)
ARTURO FUENTE	(26)	CREME DE JAMAICA	(23)	EL TROVADOR	(32)
B-H	(9)	CROOKED DOGS	(30)	EL VERSO	(51)
BACHSCHMIDT	(30)	CROOKS	(32)	EMANUELO	(51)
BALMORAL	(36)	CROWN ROYAL	(54)	EPOCA	(23)
BANCES	(17)	CUESTA-REY	(45)	ERIK	(44)
BANTAM	(30)	CUETO	(34)	ESTELI	(11)
BARON	(13)	CUSTOM PALMAS	(25)	EUROPA	(56)
BELFUMA	(31)	DANISH WHIFFS	(37)	EVERMORE	(51)
BELINDA	(17)	DANLYS	(52)	FAERICA	(31)
BEN FRANKLIN	(14)	DANNEMANN	(23)	FARNAM DRIVE	(51)
BERING	(15)	DELHI	(50)	FIGARO	(5)
BERING STRAITS	(15)	DE MARIO	(43)	FLAMENCO	(23)
BERMEJO	(8)	DE NOBILI	(18)	FLOR DE MEXICO	(52)
BETWEEN THE ACTS	(44)	DERINGER	(2)	FLOR DEL CARIBE	(55)
BLACK GOLD	(32)	DESCHLER'S MONOGRAM	(25)	FONSECA	(4)
BLACKSTONE	(69)	DEXTER	(69)	GALLAGHER	(47)
BLAUBAND	(31)	DIXIE MAID	(63)	GARCIA GRANDE	(25)
BLUE RIBBON	(32)	DON ALVARO	(19)	GARCIA Y GARCIA	(54)
BOCK y CA.	(1)	DON CE SAR	(35)	GARCIA Y VEGA	(28)
BOUQUET SPECIAL	(34)	DON DIEGO	(20), (23), (55)	GARLIDO	(27)
BRASILVA	(37)	DON EDMUND	(11)	GIOCONDA	(72)
BREVA 100's	(34)	DON MARCOS	(55)	GLADSTONE	(39)
BURGER SOHNE	(31)	DON MIQUEL	(9), (49)	GOLD LABEL	(29)
CABANAS	(1)	DON REYNALDO	(25)	GOLDEN GRIT	(32)
CAFE CREME	(73)	DON RUBIO	(40)	GRAVE IMPERIAL	(34)
CAFE NOIR	(73)	DON SEVILLE	(25)	GREAT SOUTHERN	(22)
CAMACHO	(10)	DON TOMAS	(38)	GROSS LOCKNER	(30)
CAPITAN de TUEROS	(14)	DOPPMAN & BUCK	(31)	HADDON HALL	(69)
CARABANA	(51)	DRY SLITZ	(47)	HARVESTER	(14)
CARIBA	(4)	DUC GEORGE	(30)	HAUPTMANN'S	(51)
CARIBBEAN	(25)	DUQUESNE CLUB	(25)	HAY-A-TAMPA	(35)
CASA COPAN	(40)	DUTCHMAN DREAMS	(32)	HELENA	(25)
CASA MARINA	(50)	DUTCH MASTERS	(14)	HOFNAR, N.V.	(31)
CELESTINO VEGA	(51)	DUTCH TREATS	(14)	HOLLCO	(37)
CHARLES THE GREAT	(24)	EARL MARSHALL	(1)	HOMEMADE	(63)

OF CIGAR BRANDS (Cont'd)

HOUSE OF WINDSOR	(39)	MINIATURES	(21)	SAN VICENTE	(72)
OYO	(17)	MOCHA de HONDURAS	(58)	SANTA CLARA	(3)
OYO DE MONTERREY	(17)	MONTE CARLO	(10)	SANTA FE	(62)
UNTER	(63)	MONTECRUZ	(21)	SCHIMMELPENNINCK	(21)
CAPITANO	(56)	MONTOYA	(71)	SCHMIDT TH.	(31)
STANSBUL	(30)	MUNDI VICTOR	(33)	SCOOTERS	(73)
JAMAICA HERITAGE	(58)	MUNIEMAKER	(34)	SEIDENBERG PALMA	(25)
JOHN JR.	(32)	MURIEL	(14)	SELECCION SUPERIOR	(54)
JOHN MIDDLETON	(48)	NEFF'S CORONAS	(32)	SELECTO	(13)
JOHN PIEDRO	(9)	NEWCOMER	(32)	SENATOR	(31)
JOSE MARTINEZ	(5)	NICA	(11)	No. 77	(69)
JOSE MELENDI	(5)	NOBEL	(60)	SHAKESPEARE	(29)
OYA DE NICARAGUA	(42)	#1033 CONNECTICUT	(25)	SIBONEY	(49)
JUDGES CAVE	(34)	OLD HERMITAGE	(67)	SILVERDALE	(67)
UMBRO	(32)	OMEGA	(44)	SOLO AROMA	(58)
CALOMA CEDARS	(25)	OPTIMO	(69)	SOSA	(4)
CAREL 1	(31)	ORNELAS	(52)	SPANISH PALMA	(25)
KEEP MOVING	(22)	PANCHO GARCIA	(24)	SPEZIAL REGIE VIRGINIER	(30)
SING BEE	(35)	PALMA THROWOUT	(25)	SQUILLO	(56)
SING COTTON	(32)	PANTER	(36)	STETSON	(25)
SING EDWARD	(63)	PARODI	(53)	PETER STOKKEBYE	(41)
NICKERBOCKERS	(34)	PARTAGAS	(29)	SUERDIECK	(52)
A AURORA	(43)	PENN ROSE	(32)	SWISHER SWEET	(63)
A CORONA	(1)	PEPE	(13)	TABACALERA	(55)
A DILIGENCIA	(15)	PERFECTO GARCIA	(54)	TAMPA NUGGETT	(35)
A EMINENCIA	(72)	PETRI	(56)	TAMPA STRAIGHTS	(35)
A MAGNITA	(51)	PHILLIES	(6)	TE-AMO	(65)
A MOSCOVITA	(34)	S. S. PIERCE	(9)	TIJUANA SMALLS	(29)
A PALINA	(14)	PINTOR	(57)	TIPARILLO	(29)
A PRIMADORA	(23), (69)	POLLACK	(47)	TOP STONE	(66)
AMBS CLUB	(24)	POR LARRANAGA	(23)	TOPPER	(67)
ANCER	(5)	POM POM OPERAS	(63)	TOSCANELLI	(56)
ARSEN	(37)	PRIDE OF JAMAICA	(58)	TRAVIS CLUB	(24)
LORD BALTIMORE	(32)	PRIMO DEL REY	(49)	TUDOR ARMS	(25)
LORD BEACONSFIELD	(17)	PRINCESAS	(30)	CARL UPMANN	(71)
LORD HORATIO SEAFARER	(25)	PUNCH	(17)	H. UPMANN	(9), (23), (55), (70)
LORD OF JAMAICA	(58)	R-B	(32)	VALDEZ	(40)
LOVERA	(14)	RAMROD	(53)	VALENCIA	(10)
LUNGWITZ, PAUL	(31)	REDONDOS	(5)	VAN DYCK	(29)
LUPO	(53)	REY DEL MUNDO	(23)	VAUTIER	(31)
MACABI	(4)	RICARDO SAMUEL	(61)	VELASQUES	(30)
MACANUDO	(29)	RIGOLETTO	(45)	VILLA DE CUBA	(17)
MADISON	(44)	RINN & CLOOS A.C.	(31)	VILLIGER	(31), (64)
MADRIGAL	(40)	RITMEESTER	(37)	WEBSTER	(6)
MA'HAYA	(4)	ROBT. BURNS	(29)	WHITE & GOLD	(32)
MANAGUA	(71)	ROERSH	(31)	WHITE ORCHID	(32)
MARCELLO	(25)	ROI-TAN	(1)	WHITE OWL	(29)
MARIO PALOMINO	(23)	ROSALONES	(13)	WILDE	(73)
MARK IV	(39)	ROSEDALE	(67)	WILLEM 11	(14), (55)
MARMARA	(30)	ROYAL JAMAICA	(52)	WM. ALLEN	(52)
MARSH	(47)	ROYAL MANNA	(9)	WM. PENN	(29)
MARTINEZ Y CIA	(5)	RUM CURED-CROOKS	(1)	WILLEM TELL	(14)
MATADOR	(57)	RUY LOPEZ	(72)	WILLOWS	(29)
MAX SELLERS	(22)	SAN MARCO	(10)	WINCHESTER	(59)
MELOWICK	(30)	SAN PEDRO	(25)	HENRI WINTERMAN'S	(73)
				WOLF BROS.	(68)

code of federal regulations



27

Alcohol, Tobacco
Products and Firearms

Revised as of April 1, 1978

RECEIVED
LIBRARY

JAN 18 1979

Peil, Weiss, Rifkind, Wharton & Harrison

Acts and Firearms

0, 42 FR 5001, Jan.

Classification of large

divided into eight purposes, according to price. The eight

e cigars with a not more than

e cigars with a not more than \$33.00 not more than

e cigars with a not more than \$51.00 not more than

e cigars with a not more than \$66.00 not more than

e cigars with a not more than \$105.00 not more than

e cigars with a not more than \$120.00 not more than

e cigars with a not more than \$154.00 not more than

e cigars with a not more than \$235.294

02, Jan. 26, 1977)

DES

ettes shall, before tax, be put up by packages which instruction as will be products therein mark and the notice by this part. No r cigarettes shall herein, attached marked, written, a) any certificate, ice purporting to a ticket, chance, in, or dependent

Chapter I—Bureau of Alcohol, Tobacco and Firearms

§ 270.214

on, the event of a lottery, (b) any indecent or immoral picture, print, or representation, or (c) any statement or indication that United States tax has been paid.

(72 Stat. 1422; 26 U.S.C. 5723)

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 270.212 Mark.

Every package of cigars or cigarettes packaged in a domestic factory shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, a mark as specified in this section. The mark may consist of the name of the manufacturer removing the product subject to tax and the location (by city and State) of the factory from which the products are to be so removed, or may consist of the permit number of the factory from which the products are to be so removed. (Any trade name of the manufacturer approved as provided in § 270.65 may be used in the mark as the name of the manufacturer.) As an alternative, where cigars or cigarettes are both packaged and removed subject to tax by the same manufacturer, either at the same or different factories, the mark may consist of the name of such manufacturer if the factory where packaged is identified on or in the package by a means approved by the Director. Before using the alternative, the manufacturer shall notify the Director in writing of the name to be used as the name of the manufacturer and the means to be used for identifying the factory where packaged. If approved by him the Director shall return approved copies of the notice to the manufacturer. A copy of the approved notice shall be retained as part of the factory records at each of the factories operated by the manufacturer.

(72 Stat. 1422; 26 U.S.C. 5723)

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 270.214 Notice for cigars.

(a) *General requirement.* Every package of cigars shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed

thereto, the designation "cigars", the quantity of such product contained therein, and the classification of the product for tax purposes, i.e., for small cigars, either "small" or "little", and for large cigars, the wholesale price.

(b) *Expression of wholesale price.* The price to be shown is the wholesale price for each thousand cigars, except that for cigars with a wholesale price of more than \$235.294 per thousand the wholesale price may be either specifically expressed or expressed as if it were \$236 per thousand. Such price shall be expressed either in arabic numerals or according to the code: A=1, B=2, C=3, D=4, E=5, F=6, G=7, H=8, J=9, K=0; and in either case shall be preceded by the identifying letters "MP". If the wholesale price is in even dollars then no decimal or cents information need be shown. Thus, for a cigar with a wholesale price of \$80.00 per thousand the wholesale price would be expressed as "MP80" or as "MPHK"; for a cigar with a wholesale price of \$65.20 per thousand, the wholesale price would be expressed as "MP65.20" or as "MPFE.BK"; and for a cigar with a wholesale price for \$450 per thousand, the wholesale price would be expressed as either "MP450," "MPDEK," "MP236", or "MPBCF".

(c) *Packages with cigars of more than one price.* If a combination package includes large cigars of more than one wholesale price and they are taxable on the basis of the individual wholesale prices of the cigars and not on the basis of an established wholesale price for the combination package (see § 270.22(d)), the numbers of cigars at each wholesale price and a brief description of those cigars shall be shown with the applicable wholesale price information. For example, if a package contained 30 Blunts with a wholesale price of \$80 per thousand and 20 Panatelas with a wholesale price of \$100 per thousand, the wholesale price would be shown as "30 Blunts—MP80, 20 Panatelas—MP100", or "30 Blunts—MPHK, 20 Panatelas—MPAKK".

(d) *Application of wholesale price regulations.* The application of regulations in this section relating to the im-

§ 270.215

Title 27—Alcohol, Tobacco Products and Firearms

Chapter

printing, on packages of large cigars, of information relating to wholesale price is suspended until notification in the FEDERAL REGISTER. This notification shall be published in the FEDERAL REGISTER not less than 90 days prior to the date when the wholesale price marking regulations shall begin to apply.

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5723).)

(T.D. ATF-40, 42 FR 5002, Jan. 26, 1977)

§ 270.215 Notice for cigarettes.

Every package of cigarettes shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation "cigarettes", the quantity of such product contained therein, and the classification for tax purposes, i.e., for small cigarettes, either "small" or "Class A", and for large cigarettes, either "large" or "Class B".

(72 Stat. 1422; 26 U.S.C. 5723)

§ 270.217 Repackaging.

Where a manufacturer of tobacco products desires to repackage, outside the factory, cigars or cigarettes on which the tax has been determined or which were removed for a tax-exempt purpose or transferred in bond to an export warehouse, or to repackage tax determined cigars and cigarettes in the factory, he shall make application for authorization to do so, in duplicate, to the assistant regional commissioner for the region in which the products are to be repackaged. The application shall set forth the location and the number of packages, a description of the contents, the tax status of the cigars or cigarettes, the reason for wanting to repackage the products (e.g., packages soiled, damaged, or otherwise in a condition making the product unsalable), and a description of the package to be used for repackaging. The packages to be used must comply with the package, mark, and notice provisions of this chapter applicable to the cigars or cigarettes being repackaged. The operations authorized under this section are limited solely to repackaging for good cause by a manufacturer, pursuant to an ap-

proved application, of the specified cigars and cigarettes in the described packages, and do not include any manufacturing processes. If the assistant regional commissioner approves the application, he may assign an internal revenue officer to supervise the repackaging or he may authorize the manufacturer to repackage the products without supervision by so stating on a copy of the application returned to the manufacturer. Where the manufacturer is authorized to repackage he shall record the date of repackaging on the approved application and retain it as part of his records.

(72 Stat. 1422; 23 U.S.C. 5723)

(T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975)

EXEMPTION FROM TAXES ON CIGARS AND CIGARETTES

§ 270.231 Consumption by employees.

A manufacturer of tobacco products may gratuitously furnish cigars and cigarettes, without determination and payment of tax, for personal consumption by employees in the factory in such quantities as desired. Each employee may also be gratuitously furnished by the manufacturer, for off-factory personal consumption, not more than 5 large cigars or cigarettes, 20 small cigars or cigarettes, or a proportionate quantity of each, without determination and payment of tax, on each day the employee is at work. For the purpose of this section, the term "employee" shall mean those persons whose duties require their presence in the factory or whose duties relate to the manufacture, distribution, or sale of cigars and cigarettes and who receive compensation from the manufacturer, or a parent, subsidiary, or auxiliary company or corporation of the manufacturer. Such products furnished for off-factory consumption shall be furnished to the employee within the factory and taken from the factory by the employee on the day for which furnished. Employees shall not sell, offer for sale, or give away products so furnished to them.

(72 Stat. 1418, as amended; 26 U.S.C. 5704)

(T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975)

§ 270.233

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§ 270.235

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U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20731

IN REPLY REFER TO THE FOLLOWING AND THE FILING DATE:

1. SER. NO. 161879	2. MARK COHIBA	5. PAPER NO. 7
3. APPLICANT CULBRO CORPORATION		6. PUBLICATION DATE
4. ADDRESS MORGAN, FINNEGAN, PINE, FOLEY & LEE 345 PARK AVE. NEW YORK, NEW YORK 10022		4 NOV 1980

FORM PTO 36-33 (REV. 12-76) (FORMERLY PTO-1293) U.S. DEPT. OF COMM. Pat & TM Office

NOTICE OF PUBLICATION UNDER SECTION 12(a)

The mark of the application above identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13 of the Statute or by Rules 2.101 and 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a Certificate of Registration.

Copies of the Trademark portion of the Official Gazette containing the publication of the mark may be obtained at \$1.70 each from the Superintendent of Documents, Government Printing Office.

By direction of the Commissioner

EXAMINER: <i>D. Rechner</i>
PHONE: (703) 557- 3273

Int. Cl.: 34

Prior U.S. Cl.: 17

United States Patent and Trademark Office

Reg. No. 1,147,309

Registered Feb. 17, 1981

TRADEMARK
Principal Register

COHIBA

Culbro Corporation (New York corporation)
605 3rd Ave.
New York, N.Y. 10016

For: CIGARS, in CLASS 34 (U.S. Cl. 17).
First use Feb. 13, 1978; in commerce Feb. 13,
1978.

Ser. No. 161,879, filed Mar. 13, 1978.

DAVID C. REIHNER, Primary Examiner



246-TM-130

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK OPERATION

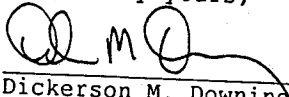
Trademark	:	COHIBA
Int'l Class	:	34
Registration No.	:	1,147,309
Dated	:	February 17, 1981
Registrant	:	Culbro Corporation
Incorporated	:	New York
Address	:	387 Park Avenue South New York, New York 10016
Goods	:	CIGARS

Hon. Commissioner of Patent and Trademarks
Washington, D.C. 20231

Sirs:

Enclosed herewith is a declaration under Section 8 and
15 of the Trademark Act of 1946, filing fee of \$200.00, and
specimens of the mark as used.

Very truly yours,


Dickerson M. Downing

DMD/ch

MORGAN & FINNEGAN
345 Park Avenue
New York, New York 10154
(212) 758-4800

1/3000

200.00 311. TM

8

246-TM-136

TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK EXAMINING OPERATIONS



Registrant : CULBRO CORPORATION
a New York corporation
Address : 387 Park Avenue South
New York, New York 10016
Mark : COHIBA
Registration No. : 1,147,309
Registration Date : February 17, 1981
Class : International 34

DECLARATION UNDER SECTIONS 8 AND 15
OF THE TRADEMARK ACT OF 1946

To The Hon Commissioner of Patents
and Trademarks
U.S. Patent and Trademark Office
Washington, D.C. 20231

S I R:

Henry D. Whitehill, Sr. Vice President/Secr. of Registrant,
hereby declares that Registrant owns the above-identified
Registration as shown by the records of the Patent &
Trademark Office; that the mark shown therein is still
in use, as evidenced by the attached specimen showing
the mark as currently used; that the mark shown therein
has been in continuous use in interstate commerce for
five consecutive years from February 17, 1981 to the
present, on the items recited in the registration,
namely: CIGARS; that there has been no final decision
adverse to registrant's claim of ownership of said mark

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200.00 CK

or to its right to register the same, or to maintain it on the register, and that there is no proceeding involving any of said rights pending and not disposed of either in the Patent and Trademark Office or in the courts.

Registrant hereby appoints George B. Finnegan, Jr.; Granville M. Pine; John D. Foley, P.C.; Jerome G. Lee, P.C.; Thomas P. Dowling, P.C.; John A. Diaz, P.C.; Warren H. Rotert; John C. Vassil, P.C.; Alfred P. Ewert; David H. Pfeffer; Harry C. Marcus; Robert E. Paulson; Stephen R. Smith; Kurt E. Richter; J. Robert Dailey; Eugene Moroz; John F. Sweeney; Arnold I. Rady; Christopher A. Hughes; William S. Feiler; Janet Dore; Joseph A. Calvaruso; James W. Gould and Richard C. Komson, and each of them as its attorneys to prosecute this application to register, to transact all business in the Patent & Trademark Office in connection therewith, and to receive the certificate.

Please address all correspondence to:

MORGAN & FINNEGAN

345 Park Avenue

New York, New York 10154

Henry D. Whitehill further declares that the facts set forth herein are true; that all statements made herein of his own knowledge are true, that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this declaration and the registration in connection with which it is filed.

CULBRO CORPORATION

By *James S. Smith*

Dated June 23, 1986

enhanced this reputation for excellence. We have selected St. Domingo (now the Dominican Republic) with its rich tradition to make our COHIBA®... a hand-made cigar of impeccable quality.

COHIBA cigars are made from only fine aged tobaccos, blended with imported leaf to perfection and rolled with the skill and pride of cigar makers whose heritage is tobacco. COHIBA's magnificent taste and aroma exemplify the centuries' old tradition of St. Domingo.

HAND MADE



IMPORTED

20 CIGARS

In the year 1496, the first account of tobacco was published by the Spanish monk, Romanus Pane, who sailed with Columbus on his second voyage to America. During his stay in St. Domingo (Hispaniola), he wrote the fascinating story of smoking by the Indian natives who used cured leaves from a strange plant which he named... COHIBA.

Since the early 16th century, the fertile soil and ideal climate of this Caribbean island has made it a major source of fine tobaccos. Fine handmade cigars further



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

REGISTRATION NO. 1147309

SERIAL NO. 73/161879

PAPER NO.

MAILING DATE: 11/03/86

MARK: COHIBA

REGISTRANT: CULBRO CORPORATION

CORRESPONDENCE ADDRESS:

MORGAN & FINNEGAN
345 PARK AVE.
NEW YORK, NY 10154

Please furnish the following
in all correspondence:

1. Your phone number and zip code.
2. Mailing date of this action.
3. Affidavit-Renewal Examiner's name.
4. The address of all correspondence not containing fees should include the words "Box 5".
5. Registration No.

RECEIPT IS ACKNOWLEDGED OF THE SUBMITTED REQUEST UNDER:

SECTION 8 OF THE TRADEMARK STATUTE AND 37 CFR SECS. 2.161-2.166.

SECTION 15 OF THE TRADEMARK STATUTE AND 37 CFR SECS. 2.167-2.168.

YOUR REQUEST FULFILLS THE STATUTORY REQUIREMENTS AND HAS BEEN ACCEPTED.

PATRICIA ANN EVERETT
AFFIDAVIT-RENEWAL EXAMINER
TRADEMARK EXAMINING OPERATION
(703) 557-1988

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 68)

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 69)

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
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GENERAL CIGAR CO., INC.	:
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Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 71)

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 72)

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 73)

REDACTED

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
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	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 74)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK EXAMINING OPERATIONS

Applicant: Culbro Corporation
Serial No.: 161,879
Filed: March 13, 1978
Mark: COHIBA
Class: 34

January 3, 1979

RESPONSE

Hon. Commissioner of Patents
and Trademarks
Washington, D. C. 20231

Attention: B. A. Chapman, Examiner - Division I

Sir:

This is in response to the Official Action of July 25, 1978 in connection with the above-identified application.

Inquiry has been made as to applicant's compliance with the labeling requirements of the Code of Federal Regulations. Applicant is and has been in compliance with the Federal Regulations regarding labeling of products bearing the mark COHIBA. Such compliance is shown by the label specimen accompanying this response which is used on all containers of the product in conjunction with the labels bearing the mark COHIBA heretofore made of record in this application.

Question has also been raised as to the meaning and significance, if any, of the term "Cohiba". To the best of applicant's knowledge, the term "Cohiba" has no English translation or any meaning or significance in the relevant trade or industry.

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JSC

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Applicant notes the copendency of application Serial No. 155,418 for the mark COHIBA and Design, and that the said application will be cited against this application if and when the former matures into a registration. Applicant will address that matter at the appropriate time.

Respectfully submitted,

MORGAN, FINNEGAN, PINE, FOLEY & LEE

by *Harry C. Marcus*

Harry C. Marcus
Reg. No. 22,390
Attorneys for Registrant
345 Park Avenue
New York, New York 10022
(212) 758-4800

GC 001881

151

THESE CIGARS ARE PREDOMINANTLY NATURAL TOBACCO WITH NO TOBACCO PRESERVATIVE ADDED

50 CIGARS
General Cigar & Tobacco Co.
Division of Gulbey Corp.
605 Third Avenue
New York, N.Y. 10016



PLAINTIFF'S
EXHIBIT
151
7/18/50

GC 001882

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 75)

PLY REFER TO THE FOLLOWING AND THE FILING DATE:

1. NO.
1879

2. MARK
COHIBA

3. APPLICANT
LBRO CORPORATION

4. ADDRESS

RGAN, FINNEGAN, PINE, FOLEY & LEE
5 PARK AVE.
NEW YORK, NEW YORK 10022.

FORM PTO 34-33 (REV. 12-76) (FORMERLY PTO-1293) U.S. DEPT. OF COMMERCE Pat & TM Office



U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

5. PAPER NO.

3

ADDRESS
COMMISSIONER OF PATENTS
AND TRADEMARKS
WASHINGTON D. C. 20231
AND
FURNISH YOUR ZIP CODE
AND TELEPHONE
NUMBER IN ALL
CORRESPONDENCE

6. MAILING DATE

14 MAR 1979

RECEIVED

MAR 20 1979

Responsive to communication filed January 3, 1979.

The cited pending application is still pending in this Office.

The label submitted does not show compliance with the requirement of the code of Federal Regulations in that it does not state the tax class.

It has come to the Examiners attention that cohiba is a geographical tobacco growing region of Cuba. In view thereof, if the goods originate from cohiba, Cuba, then registration is refused on the Principal Register because the mark, when applied to the goods and/or services, is considered to be merely descriptive thereof. Section 2(e)(1) of the Trademark Act; TMEP Section 1207.

If the goods do not originate from Cohiba, Cuba, then registration is refused on the ground that the mark is considered to consist of or comprise deceptive matter. Section 2(a) of the Trademark Act; TMEP Section 1202.02.

See In re Charles S Loeb & Sons Inc., 190 USPQ 238.

BC:ta

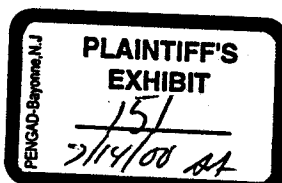
Cubro-TM-3 ATTY XCM
September 14, 1979

Beth Chapman
Beth Chapman
Trademark Attorney, Div. I
703- 557-3273

A proper response to THIS OFFICE action must be received within 6 months from the date of this action in order to avoid ABANDONMENT.

PTOL-99

2 - Applicant's Copy



GC 000047

P 0051



U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

PLY REFER TO THE FOLLOWING AND THE FILING DATE:

SR. NO. 4817 2. MARK VINALES

APPLICANT
OLBRO CORPORATION

ADDRESS
ORGAN, FINNEGAN, PINE, FOLEY & LEE
45 PARK AVE.
NEW YORK, NEW YORK 10022

ADDRESS
COMMISSIONER OF PATENTS
AND TRADEMARKS
WASHINGTON D. C. 20231
AND
FURNISH YOUR ZIP CODE
AND TELEPHONE
NUMBER IN ALL
CORRESPONDENCE

5. PAPER NO.

6. MAILING DATE

MAR 09 1979

FORM PTO 34-32 (REV. 12-76) (FORMERLY PTO-1273) U.S. DEPT. OF COM. Pat & TM Office

RECEIVED
DOCKET

MAR 15 1979

M.F.D.P. & L.

Responsive to communication filed November 3, 1978.

The request for a showing of compliance with the requirements of the Code of Federal Registrations is ~~requested~~. The label submitted states the quantity and the designation "cigars" but it makes no reference to the tax class.

In view of the information of record please be advised as follows: If the goods originate from Vinales, Cuba, then registration is refused on the Principal Register because the mark, when applied to the goods and/or services, is considered to be primarily geographically descriptive thereof. Section 2(e) (2) of the Trademark Act; TMEP Section 1208.02.

If however, applicant's goods do not originate from Vinales, Cuba, then registration is refused on the ground that the mark is considered to consist of or comprise deceptive matter. Section 2(a) of the Trademark Act; TMEP Section 1202.02. See In re Charles Sjoeb Pipes, Inc. 190 USPQ 238.

BAC:pgc

Beth Anne Chapman
Beth Anne Chapman
Trademark Attorney, Div. I
(703)-557-3273

GC 000048

Case 4817-7, 1978, 7/27/78
12/14/78

A proper response to THIS OFFICE action must be received within 6 months from the date of this action in order to avoid ABANDONMENT.

PTOL-99

P 0052

2 - Applicant's Copy

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 77)

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 78)

246-TM-136

TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK EXAMINING OPERATIONS

Registrant : CULBRO CORPORATION
a New York corporation
Address : 387 Park Avenue South
New York, New York 10016
Mark : COHIBA
Registration No. : 1,147,309
Registration Date : February 17, 1981
Class : International 34

DECLARATION UNDER SECTIONS 8 AND 15
OF THE TRADEMARK ACT OF 1946

To The Hon Commissioner of Patents
and Trademarks
U.S. Patent and Trademark Office
Washington, D.C. 20231

S I R:

Henry D. Whitehill, Jr. Vice President/Secr. of Registrant,
hereby declares that Registrant owns the above-identified
Registration as shown by the records of the Patent &
Trademark Office; that the mark shown therein is still
in use, as evidenced by the attached specimen showing
the mark as currently used; that the mark shown therein
has been in continuous use in interstate commerce for
five consecutive years from February 17, 1981 to the
present, on the items recited in the registration,
namely: CIGARS; that there has been no final decision
adverse to registrant's claim of ownership of said mark

GC 000109

P 0119

or to its right to register the same, or to maintain it on the register, and that there is no proceeding involving any of said rights pending and not disposed of either in the Patent and Trademark Office or in the courts.

Registrant hereby appoints George B. Finnegan, Jr.; Granville M. Pine; John D. Foley, P.C.; Jerome G. Lee, P.C.; Thomas P. Dowling, P.C.; John A. Diaz, P.C.; Warren H. Rotert; John C. Vassil, P.C.; Alfred P. Ewert; David H. Pfeffer; Harry C. Marcus; Robert E. Paulson; Stephen R. Smith; Kurt E. Richter; J. Robert Dailey; Eugene Moroz; John F. Sweeney; Arnold I. Rady; Christopher A. Hughes; William S. Feiler; Janet Dore; Joseph A. Calvaruso; James W. Gould and Richard C. Komson, and each of them as its attorneys to prosecute this application to register, to transact all business in the Patent & Trademark Office in connection therewith, and to receive the certificate. Please address all correspondence to:

MORGAN & FINNEGAN

345 Park Avenue

New York, New York 10154

Henry D. Whitehill further declares that the facts set forth herein are true; that all statements made herein of his own knowledge are true, that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this declaration and the registration in connection with which it is filed.

CULBRO CORPORATION

By *August L. Miller*

Dated June 23, 1936

GC 000111

MR. DEALER:

IF YOU WISH TO
SELL THESE CIGARS
INDIVIDUALLY—
PUT PRICE STICKER
ON FRONT AND PLACE
CARD ON RIM OF THIS
CONTAINER AS
ILLUSTRATED

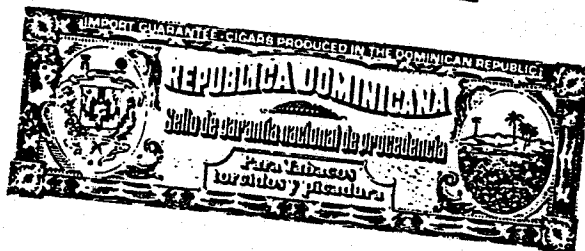


CONFIDENTIAL

GC 000112

CONFIDENTIAL

P 0122



20 CIGARS

20 CIGARS
HANDMADE IN SANTIAGO
DOMINICAN REPUBLIC
IMPORTED BY
DIAZ Y CIA.
P.O. BOX 418
MURRAY HILL STATION
NEW YORK, NY 10156

CONFIDENTIAL

GC 000113

CONFIDENTIAL

P 0123

enhanced this reputation for excellence. We have selected St. Domingo (now the Dominican Republic) with its rich tradition to make our COHIBA... a hand-made cigar of impeccable quality.

COHIBA cigars are made from only fine aged tobaccos, blended with imported leaf to perfection and rolled with the skill and pride of cigar makers whose heritage is tobacco. COHIBA's magnificent taste and aroma exemplify the centuries' old tradition of St. Domingo.

HAND MADE



20 CIGARS

IMPORTED

COHIBA No. 2

In the year 1496, the first account of tobacco was published by the Spanish monk, Romanus Pane, who sailed with Columbus on his second voyage to America. During his stay in St. Domingo (Hispaniola), he wrote the fascinating story of smoking by the Indian natives who used cured leaves from a strange plant which he named... COHIBA.

Since the early 16th century, the fertile soil and ideal climate of this Caribbean island has made it a major source of fine tobaccos. Fine handmade cigars further

CONFIDENTIAL

GC 000114

CONFIDENTIAL

P 0124

246-TM-130

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK OPERATION


Trademark	:	COHIBA
Int'l Class	:	34
Registration No.	:	1,147,309
Dated	:	February 17, 1981
Registrant	:	Culbro Corporation
Incorporated	:	New York
Address	:	387 Park Avenue South New York, New York 10016
Goods	:	CIGARS

Hon. Commissioner of Patent and Trademarks
Washington, D.C. 20231

Sirs:

Enclosed herewith is a declaration under Section 8 and
15 of the Trademark Act of 1946, filing fee of \$200.00, and
specimens of the mark as used.

Very truly yours,


Dickerson M. Downing

DMD/ch

MORGAN & FINNEGAN
345 Park Avenue
New York, New York 10154
(212) 758-4800

GC 000115

P 0125

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 79)



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

REGISTRATION NO. 1147309

SERIAL NO. 73/161879

PAPER NO.

MAILING DATE: 11/03/86

MARK: COHIBA

REGISTRANT: CULBRO CORPORATION

CORRESPONDENCE ADDRESS:

MORGAN & FINNEGAN
345 PARK AVE.
NEW YORK, NY 10154

Please furnish the following
in all correspondence:

1. Your phone number and zip code.
2. Mailing date of this action.
3. Affidavit-Renewal Examiner's name.
4. The address of all correspondence not containing fees should include the words "Box 5".
5. Registration No.

RECEIPT IS ACKNOWLEDGED OF THE SUBMITTED REQUEST UNDER:

SECTION 8 OF THE TRADEMARK STATUTE AND 37 CFR SECS. 2.161-2.166.

SECTION 15 OF THE TRADEMARK STATUTE AND 37 CFR SECS. 2.167-2.168.

YOUR REQUEST FULFILLS THE STATUTORY REQUIREMENTS AND HAS BEEN ACCEPTED.

PA Everett

PATRICIA ANN EVERETT
AFFIDAVIT-RENEWAL EXAMINER
TRADEMARK EXAMINING OPERATION
(703) 557-1988

CASE 246-TM-130 ATTY DmD

DUE _____

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BY *KE* _____

GC 006213

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 80)

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REDACTED

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
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v.	:
	:
GENERAL CIGAR CO., INC.	:
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Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 82)

REDACTED

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 85)

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 88)

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 89)

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REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 90)

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
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v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 91)

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REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 92)

REDACTED

REDACTED

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REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 93)

REDACTED

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 102)

08/24/01 08:32 FAX 0

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GAZETA OFICIAL

29 de Abril de 1961

POR TANTO: Mandó que se cumpla y ejecute la presente Ley en todas sus partes.

DADA en el Palacio de la Revolución, en La Habana, a los 15 días del mes de abril de 1961.

OSVALDO DORTICOS TORRADO

Viceletrado
Primer Ministro

Marcos Fernández Font
Ministro del Comercio Exterior

Si

OSVALDO DORTICOS TORRADO, Presidente de la República de Cuba

HAGO SABER: Que el Consejo de Ministros ha acordado y se ha sancionado lo siguiente:

POR CUANTO: El incremento de la demanda interna y externa del tabaco en todas sus formas, precisa la organización de una empresa que, como Organismo Central, abarque todas las actividades relacionadas con el cultivo, producción y distribución, así como la ejecución y operación del comercio exterior de un producto y la dirección técnica de su base agrícola.

POR TANTO: En uso de las facultades que le están conferidas, el Consejo de Ministros resuelve dictar la siguiente:

LEY No. 1191

DISPOSICIONES GENERALES

ARTICULO 1.—Se crea una personalidad jurídica independiente y patrimonio y administración propia, la Empresa Cubana del Tabaco, que tendrá las fines y funciones que se determinan en la presente Ley.

La Empresa Cubana del Tabaco, que por esta Ley se crea, será identificada a todos los efectos legales por la sigla "CUBATABACO" y estará sujeta a la legislación mercantil en sus relaciones con terceros, en las operaciones de comercio exterior que realice.

ARTICULO 2.—A la Empresa CUBATABACO corresponderá la dirección, ejecución y supervisión de los planes de desarrollo de la economía tabacalera de la Nación y en especial el fomento de la exportación del tabaco.

ARTICULO 3.—La Empresa CUBATABACO tendrá su domicilio en la Ciudad de La Habana, República de Cuba, y podrá realizar operaciones mercantiles en todo el territorio nacional y en el extranjero, por medio de las oficinas que a ese fin organice, o a través de los representantes, apoderados o delegados que al efecto designe.

ARTICULO 4.—El capital de la Empresa Cubana del Tabaco (CUBATABACO) estará constituido por la suma de \$1,000,000 de los cuales \$100,000 corresponden al Capital de la Empresa Cubana Exportadora de Tabaco, que se le fusiona, y el resto en efectivo será aportado por el Estado cubano.

ARTICULO 5.—La Empresa CUBATABACO responderá por su patrimonio de las obligaciones que contraiga al realizar sus operaciones mercantiles y en consecuencia se

deberá responsable de las obligaciones que correspondan a ella, el que tampoco responderá en caso alguno de contraindices por la Empresa.

De las Funciones

ARTICULO 6.—Para el cumplimiento de los fines en la presente Ley se establecen, la Empresa CUBATABACO, deberá:

- a) Realizar estudios económicos relacionados con el desarrollo prospectivo de la economía tabacalera.
- b) Confeccionar el plan anual de la Empresa de acuerdo con las directivas y orientaciones emitidas por la Junta Central de Planificación.
- c) Velar porque el desarrollo de la producción tabacalera en sus distintas fases y aspectos, se realice de acuerdo con la política trazada por el Gobierno revolucionario.
- d) Dirigir, orientar y supervisar técnicamente la producción agrícola tabacalera, tanto en el sector estatal como en el privado, mediante la fijación por zonas las cantidades, tipos y clases de tabaco a producir, la determinación y afectación de nuevas áreas agrícolas, con vista a su desarrollo prospectivo, al establecimiento de normas técnicas para la siembra, cultivo y recolección del tabaco y la organización de centros de experimentación e investigación.
- e) Organizar y ejecutar la producción de semillas y milleros, a fin de lograr pasturas que garanticen máximo de rendimiento y calidad.
- f) Organizar, dirigir, ejecutar y supervisar el cultivo tabacalero, y establecer las normas de selección que rigen en su clasificación, tiempo, beneficio, almacenamiento y fumigación.
- g) Organizar, dirigir, ejecutar y supervisar la producción industrial de tabacos y cigarrillos, teniendo presente la mayor eficiencia, la mayor utilización de la capacidad instalada, el aumento de la productividad, la disminución de los costos y el mejoramiento de la calidad de los productos.
- h) Organizar la adquisición, producción, almacenamiento y distribución de los insumos y demás materiales que se requieren para el abastecimiento de la empresa de los agricultores privados del tabaco, así como adquisición de bienes y activos de cualquier clase y naturaleza que considere necesarios al cumplimiento de sus fines.
- i) Organizar, dirigir y realizar la distribución de tabacos, cigarrillos y raras y demás productos del tabaco en el mercado interno, así como la de los países extranjeros, velando porque las entregas de dichos productos se realicen en unidades de detallistas, lo sean en las cantidades y surtidos necesarios, según los requerimientos de la población.
- j) Impulsar los precios y márgenes comerciales que han de regir para el cultivo del tabaco y la distribución mayorista y minorista del tabaco, cigarrillo y raras y demás productos del tabaco.

P17230

28 de Abril de 1966

GAZETA OFICIAL

35

1) Dirigir las operaciones relativas a la exportación de tabaco en todas sus formas, incluída la gestión de ventas en los mercados extranjeros y, en su caso, las demás operaciones del comercio exterior del tabaco que le asigne el Gobierno, ajustándose a la política comercial que desarrolla el Ministerio del Comercio Exterior.

2) Constituir y administrar reservas de tabaco.

3) Coordinar las medidas destinadas a facilitar el estudio y la implantación de las normas y disposiciones de las materias primas, insumos y demás materiales que regulan la producción tabacalera.

4) Establecer correspondientemente medidas, normas y especificaciones destinadas a garantizar la calidad de los productos de la industria tabacalera.

5) Participar en las actividades de cooperación científica y técnica que se realicen en el campo de la economía tabacalera, ya sea en relación con otros organismos nacionales como con los que se desarrollan con otros países por los organismos competentes y coordinar la prestación recíproca de esas actividades, entre las dependencias y unidades.

Del Gobierno y Organización

ARTICULO 7.—El gobierno y administración de la Empresa estarán a cargo de un Director, un Subdirector y un Gerente de Exportación, que tendrán las atribuciones y facultades que se establecen en esta Ley y las que se determinen en el Reglamento Orgánico.

ARTICULO 8.—El Director de la Empresa será designado y removido libremente por el Presidente de la República, quien también nombrará al Subdirector, a propuesta del Director de la Empresa.

El Gerente de Exportación será designado y removido libremente por el Director de la Empresa.

ARTICULO 9.—El Director de la Empresa ostentará su representación legal, sin perjuicio de las facultades que por el Artículo 11 de esta Ley se confieren al Gerente de Exportación y, en su carácter de Jefe Superior de la misma, tendrá facultado para:

a) Ejercer la alta dirección y supervisión de la Empresa, sus dependencias y unidades.

b) Dirigir la formulación, ejecución y control del plan de la Empresa, velando por el estricto cumplimiento de las obligaciones comerciales y financieras de la misma.

c) Acordar, concertar y suscribir a nombre y por cuenta de la Empresa, los contratos y cualesquiera otros documentos que se requieran.

d) Nombrar, promover, trasladar y separar al personal de la Empresa, de acuerdo con la legislación laboral vigente.

e) Contratar el personal técnico y los servicios que correspondan para el cumplimiento de las funciones.

f) Dictar, mediante resoluciones, las normas que resulten necesarias para el mejor funcionamiento de la Empresa, sus dependencias y unidades.

g) Delegar cualesquiera de las anteriores facultades y las demás que le correspondan en el Subdirector o en cualquier otro personal dirigente de la Empresa.

ARTICULO 10.—El Subdirector ejercerá las facultades que se le confieren en el Reglamento Orgánico y las que en el diálogo el Director y sustituirá a éste en todos los casos de ausencia temporal.

ARTICULO 11.—El Gerente de Exportación ostentará la representación legal de la Empresa en todas las operaciones y transacciones, relacionadas con la exportación de tabaco en todas sus formas. A esos fines tendrá las atribuciones y facultades que de le asignen en el Reglamento Orgánico y en especial para acordar, concertar y suscribir, a nombre y por cuenta de la Empresa, los contratos y cualesquiera otros documentos públicos o privados que se requieran: otorgar poderes de todas clases y revocarlos; librar, suscribir, aceptar y endosar documentos mercantiles; abrir, operar y cerrar cuentas bancarias, tanto en Cuba como en el extranjero, y realizar cuantas más operaciones a gestiones bancarias y mercantiles autorice la legislación vigente, ejecutándolas por sí o por medio de otras personas en las que delegue sus facultades.

ARTICULO 12.—La Empresa Cubana del Tabaco (CUBATABACO) se organizará internamente en las oficinas, dependencias, unidades y delegaciones provinciales y regionales que se determinen en el Reglamento Orgánico.

ARTICULO 13.—En la Empresa Cubana del Tabaco (CUBATABACO) existirá un Consejo de Dirección que funcionará como órgano asesor del Director, en todos los asuntos en que a su juicio se requiera la discusión y orientación colectiva respecto a la actividad general de la Empresa.

El Consejo de Dirección será presidido por el Director de la Empresa, se reunirá cuando éste lo disponga y se integrará conforme se determinen en el Reglamento Orgánico.

DISPOSICIONES TRANSITORIAS

PRIMERA: Todas las empresas del sector estatal que a la promulgación de esta Ley se encuentren desarrollando actividades relacionadas en cualquier forma con la producción del tabaco, con excepción de las agrícolas, se fusionarán a la Empresa Cubana del Tabaco (CUBATABACO), que por esta Ley se crea.

Como consecuencia de la fusión que por esta Disposición Transitoria se establece, se asignan a la Empresa Cubana del Tabaco (CUBATABACO), todos los fondos, equipos, archivos, documentos y personal, incluídas los medios básicos, circulantes y financieros que están asignados o corresponden a las empresas que se le fusionan.

SEGUNDA: El Director de la Empresa Cubana del Tabaco (CUBATABACO), coordinará con los Ministros y jefes de los organismos que correspondan, los traslados de personal, unidades y dependencias que correspondan.

P17231

TERCERA: Hasta tanto se dicte el Reglamento Orgánico al Director de la Empresa Cubana del Tabaco (CUBATABACO), asumirá, en adición a las atribuciones y funciones que se le confieren en esta Ley, cuantas más sean necesarias al cumplimiento de las mismas para los cuales ha sido creada la Empresa, quedando autorizada para, mediante resoluciones, disponer su estructura orgánica y dictar los reglamentos y demás disposiciones por las que habrán de regirse las oficinas, dependencias, unidades y delegaciones Provinciales y Regionales de la Empresa.

CUARTA: Se faculta al Presidente del Banco Nacional de Cuba para hacer las remisiones de créditos y sujeción de consignaciones en el Presupuesto Nacional que fueren necesarias para el cumplimiento de lo dispuesto en esta Ley.

DISPOSICIONES FINALES

PRIMERA: La Empresa Cubana del Tabaco (CUBATABACO), que por esta Ley se crea, se subroga en las acciones y derechos y se sustituye en las obligaciones contractuales y extracontractuales de la Empresa Cubana Exportadora de Tabaco (CUBATABACO), creada por la Resolución número 2 de primera de enero de 1962, del Ministro del Comercio Exterior, de la que es sucesora y continuadora.

SEGUNDA: Se faculta al Director de la Empresa Cubana del Tabaco (CUBATABACO) para dictar el Reglamento Orgánico de la Empresa.

TERCERA: Se autoriza al Ministro de Justicia para tramitar, en la forma y bajo las condiciones que estime oportunas, a la Empresa Cubana del Tabaco (CUBATABACO) que por esta Ley se crea, todas las modalidades de propiedad industrial que se refieran al tabaco, que haya adquirido o adquiriera, por cualquier título, el Estado cubano, ya se encuentren inscritas o no a su favor en los Registros correspondientes.

CUARTA: Se derogan cuantas disposiciones legales y reglamentarias se opongan al cumplimiento de lo dispuesto en la presente Ley, la que comenzará a regir a partir de su publicación en la GACETA OFICIAL de la República.

POR TANTO: Mando que se cumpla y ejecute la presente Ley en todas sus partes.

DADO en el Palacio de la Revolución, en La Habana, a los 25 días del mes de abril de 1964.

OSVALDO DORTICOS TORRADO

Fidel Castro Ruz
Primer Ministro

José Domínguez Benítez
Ministro de Industrias

DECRETO No. 2334
En uso de las facultades de que estoy investido, a propuesta del Ministro de Justicia y asistido del Consejo de Ministros,

Resuelve:
Aceptar la renuncia que del cargo de Teniente Fiscal de la Audiencia de Santiago de Cuba ha presentado el doctor José Víctor Casasús Martín.
El Ministro de Justicia queda encargado del cumplimiento de lo que por el presente Decreto se dispone.

DADO en el Palacio de la Revolución, en La Habana, a 15 de marzo de 1966.

OSVALDO DORTICOS TORRADO
Presidente

Fidel Castro Ruz
Primer Ministro

Alfredo Yabar Matuf

Ministro de Justicia

DECRETO No. 2335
En uso de las facultades de que estoy investido, a propuesta del Ministro de Justicia y asistido del Consejo de Ministros,

Resuelve:

Aceptar la renuncia, que del cargo de Teniente Fiscal de la Audiencia de Santiago de Cuba ha presentado el doctor Teobaldo Marcelino Vinas Padron.

El Ministro de Justicia queda encargado del cumplimiento de lo que por el presente Decreto se dispone.

DADO en el Palacio de la Revolución, en La Habana, a 15 de marzo de 1966.

OSVALDO DORTICOS TORRADO
Presidente

Fidel Castro Ruz
Primer Ministro

Alfredo Yabar Matuf
Ministro de Justicia

DECRETO No. 2336
En uso de las facultades de que estoy investido, a propuesta del Ministro de Justicia y asistido del Consejo de Ministros,

Resuelve:

Aceptar la renuncia presentada por el doctor Vidal Morales y Calvo, del cargo de Registrador de la Propiedad de Matanzas, en el territorio de la Audiencia de Matanzas, declarando vacante dicho cargo.

El Ministro de Justicia queda encargado del cumplimiento de lo que por el presente Decreto se dispone.

DADO en el Palacio de la Revolución, en La Habana, a 24 de marzo de 1966.

OSVALDO DORTICOS TORRADO
Presidente

Fidel Castro Ruz
Primer Ministro


Alfredo Yabar Matuf
Ministro de Justicia

Declaration of Translation
of Ley No. 1191 (P17230-17232)

Debra Evenson declares under penalty of perjury under the laws of the United States that the following is true and correct:

1. I am a lawyer, licensed to practice law in the State of New York, and am of counsel to the law firm Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C. I was professor of law at DePaul University School of Law from 1980-1993 where I taught comparative international law. I am fluent in the Spanish language.
2. I translated Ley No. 1191 (P17230-17232) from Spanish into English. I attach hereto a copy of the original documents in Spanish and the translation thereof which is a true and correct translation into English.

Signed this 14th day of January of 2002



DEBRA EVENSON

Translation of Ley No. 1191 (P17230-33)

OSVALDO DORTICOS TORRADO, President of the Republic of Cuba

MAKES KNOWN: That the Council of Ministers has resolved and I have sanctioned the following:

WHEREAS: The increase in the internal and foreign demand for tobacco in all its forms, requires the organization of an enterprise which, as a Central Organism, covers all of the activities related to the cultivation, production and distribution, as well as the execution and operation of foreign commerce of that product and the technical direction in its agricultural phase.

THEREFORE: In use of the powers conferred on it, the Council of Ministers resolves to enact the following:

Law No. 1191

GENERAL PROVISIONS

ARTICLE 1. - The Empresa Cubana del Tabaco is created with independent legal personality and patrimony and its own administration, which will have the objectives and functions that are determined by the present Law.

The Empresa Cubana del Tabaco, which is created by this law, shall be identified for all legal effects by the name CUBATABACO and shall be subject to the commercial legislation in its relations with third parties in the foreign commercial operations it undertakes.

ARTICLE 2. - The direction, execution and supervision of the plans of development of the tobacco economy of the Nation and in especial the promotion of the export of tobacco corresponds to the enterprise CUBATABACO.

ARTICLE 3. - The enterprise CUBATABACO will have its domicile in the City of Havana, Republic de Cuba, and shall undertake mercantile operations in all of the national territory and in the world, by means of offices which for this purpose it may organize, or through representatives, agents or delegates which it may designate for this purpose.

ARTICLE 4. - The capital of the Empresa Cubana del Tabaco (CUBATABACO) shall be comprised of the sum of \$1,000,000 of which \$100,000 corresponds to the Capital of the Empresa Cubana Exportadora de Tabaco, which is merged into it, and the rest in cash will be provided by the Cuban State.

ARTICLE 5. - The Empresa CUBATABACO will respond with its own patrimony for the obligations which it contracts to undertake its commercial operations

and consequently will not be liable for the obligations of the State, which will also not be liable in any case for those contracted by the Empresa.

On the Functions

ARTICLE 6. -- For the fulfillment of the purposes of the present Law it is established that the Empresa CUBATABACO shall:

- a) Undertake economic studies related to the economic perspective of the tobacco economy.
- b) Draw up the annual plan of the Empresa in accord with the directives and orientations issued by the Central Planning Board.
- c) Oversee that the development of the tobacco production in its distinct phases and aspects is undertaken according to the policy outlined by the revolutionary Government.
- d) Direct, orient and supervise technically the tobacco agricultural production, in the state as well as in the private sector, by establishing by zones the quantities, types and classes of tobacco to be produced and the determination and adoption of new areas for planting, with a view toward the future development, the establishment of technical norms for the planting and the harvesting of tobacco and the organization of centers of experimentation and research.
- e) Organize and execute the production of seeds and seedbeds to achieve seedlings that guarantee the maximum yield and quality.
- f) Organize, direct, execute and supervise the storing of tobacco and establish the norms for the selection that govern its classification, purchase, benefit, storage and fumigation.
- g) Organize, direct, execute and supervise the industrial production of cigars and cigarettes, with the objective of greatest efficiency, the best utilization of the installed capacity, the increase of the production, the reduction of costs and the improvement of the quality of the products.
- h) Organize the acquisition, production, warehousing and distribution of the supplies and other materials that are required for the supply of the enterprise and of the private tobacco farmers as well as the acquisition of the assets and goods of whatever character and nature which are considered necessary for the fulfillment of its purposes.
- i) Organize, direct and undertake the distribution of cigars, cigarettes and leaf and other tobacco products in the internal market, as well as the (illegible)

watching out that the deliveries of said products to the retailers be in the quantities and the types necessary, according to the requirements of the population.

- j) Propose the prices and commercial margins that should govern the harvest of tobacco and the wholesale and retail distribution of cigars, cigarettes and leaf and other tobacco products.
- k) Execute the operations related to the export of tobacco in all of its forms, including the conduct of sale in foreign markets and, as may be the case, the other operations of foreign commerce of tobacco that the Government may assign it, adjusting to the commercial policy that the Ministry of Foreign Commerce develops.
- l) Constitute and administer tobacco reserves.
- m) Coordinate the measures destined to facilitate the study and implementation of the norms and specifications of the raw materials, supplies and other materials the tobacco production requires.
- n) Participate in the activities of scientific cooperation and technical assistance that may be carried out in the field of the tobacco economy, as related to other national organisms as well as to that which may develop with other countries by the competent organisms and coordinate the reciprocal offering of these activities among its dependencies and units.

On Government and Organization

ARTICLE 7. - The government and administration of the Enterprise shall be assigned to a Director, a Vice Director and an Export Manager, that shall have the powers and faculties that are indicated in this law and those that are determined by its Organic Regulations.

ARTICLE 8. - The Director of the Enterprise shall be designated and freely removed by the President of the Republic, who also shall name the Vice Director, at the proposal of the Director of the Enterprise.

The Manager of Export shall be designated and freely removed by the Director of the Enterprise.

ARTICLE 9. - The Director of the Enterprise shall hold its legal representation without prejudice to the faculties that are conferred on the Manager of Export by Article 11 of this Law, and in his character as Superior Chief of same, shall be empowered to:

- a) Exercise the top direction and supervision of the Enterprise, its dependencies and units.
- b) Direct the formulation, execution and control of the plan of the Enterprise, overseeing the strict fulfillment of the commercial and financial obligations of the same.
- c) Agree to, contract and sign on behalf and on account of the Enterprise, the contracts and whatever other documents that may be required.
- d) Name, promote, transfer and dismiss the personnel of the Enterprise, in accordance with the labor legislation in force.
- e) Contract the technical personnel and services which he considers necessary for the fulfillment of the (illegible)
- f) Dictate, by means of resolutions, the norms that are necessary for the better functioning of the Enterprise, its dependents and units.
- g) Delegate whatever of the above mentioned powers and others that may correspond to him to the Vice Director or to whatever other management personnel of the Enterprise.

ARTICLE 10. – The Vice Director shall exercise the powers that are conferred on him in the Organic Regulation and those that the Director may delegate to him and to substitute for the Director in any case of temporary absence.

ARTICLE 11. – The Manager of Export shall hold the legal representation of the Enterprise in all of the operations and transactions related to the export of tobacco in all of its forms. To these ends, he shall have the attributes and powers that the Organic Regulation may assign him and especially to agree to, contract and sign in the name and on the account of the Enterprise, all contracts and whatever other public and private documents may be required; grant powers of all classes and revoke them; issue, sign, accept and endorse commercial documents; open, operate and close bank accounts, in Cuba as well as abroad, and undertake other operations or banking and mercantile actions that the legislation in force authorizes, executing them himself or through other persons to whom he may delegate his powers.

ARTICLE 12. – The Empresa Cubana del Tabaco (CUBATABACO) shall be organized internally in the offices, dependencies, units and provincial and regional delegations that are determined in the Organic Regulation.

ARTICLE 13. – There shall exist a Council of Direction in the Empresa Cubana del Tabaco (CUBATABACO) that shall function as the advisory body of the Director in all the matters which, in his judgment, require the discussion and collective guidance with respect to the general activity of the Enterprise.

The Council of Direction shall be presided over by the Director of the Enterprise, shall meet when he decides and shall be composed according to that determined in the Organic Regulation.

TRANSITORY DISPOSITIONS

FIRST: All the enterprises of the state sector which at the time of the promulgation of this Law are found developing activities related in whatever form to the production of tobacco, except the agricultural activities, shall be merged into the Empresa Cubana del Tabaco (CUBATABACO) which is created by this Law.

As a consequence of the merger established by this Transitory Disposition, the Empresa Cubana del Tabaco (CUBATABACO) is assigned all of the funds, equipment, files, documents and personnel, including the basic means, cash and finances which are assigned or correspond to the enterprises which are merged into it.

SECOND. – The Director of the Empresa Cubana de Tabaco (CUBATABACO), shall coordinate with the Ministries and heads of the corresponding bodies, the transfers of enterprises, (illegible) and functions (illegible)...

THIRD. – Until such time as the Organic regulation is dictated, the Director of the Empresa Cubana del Tabaco (CUBATABACO) shall assume in addition to the attributes and powers conferred on him in this Law, all those necessary for the fulfillment of the purposes for which the Empresa has been created, being authorized through resolutions to set out its organic structure and enact rules and other dispositions which shall govern the offices, dependencies, units and Provincial and Regional delegations of the Enterprise.

FINAL DISPOSITIONS

FIRST. – The Empresa Cubana del Tabaco (CUBATABACO), created by this Law, is subrogated to the assets and rights and substitutes in the contractual and extra contractual obligations of the Empresa Cubana Exportadora de Tabaco (CUBATABACO), created by Resolution number 2 of the first of January of 1962, by the Ministry of Foreign Commerce, of which it is the successor and continuation.

SECOND. – The Director of the Empresa Cubana del Tabaco (CUBATABACO) is empowered to enact the Organic Regulation of the Enterprise.

THIRD. – The Minister of Justice is authorized to issue in the form and under the conditions he believes appropriate to the Empresa Cubana del Tabaco (CUBATABACO) THAT THIS Law creates, all of the modalities of industrial property that refer to tobacco, which the Cuban State has acquired or may acquire by whatever title, whether found registered or not in its favor in the corresponding registries.

FOURTH. – All legal dispositions and regulations in conflict with the fulfillment of that set forth in the present Law, which will go into force from the time of its publication in the Official Gazette of the republic, are repealed.

THEREFORE: I mandate that the present Law be fulfilled and executed in all its parts.

GIVEN en the Palace of the Revolution in Havana, the 25th day of the month of April of 1966.

OSVALDO DORTICOS TORRADO

Fidel Castro Ruz
Prime Minister

Joel Dominican Benitez
Minister of Industries

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 103)

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Filings: Dkt 111-115 (SJ P.Ex. 152)

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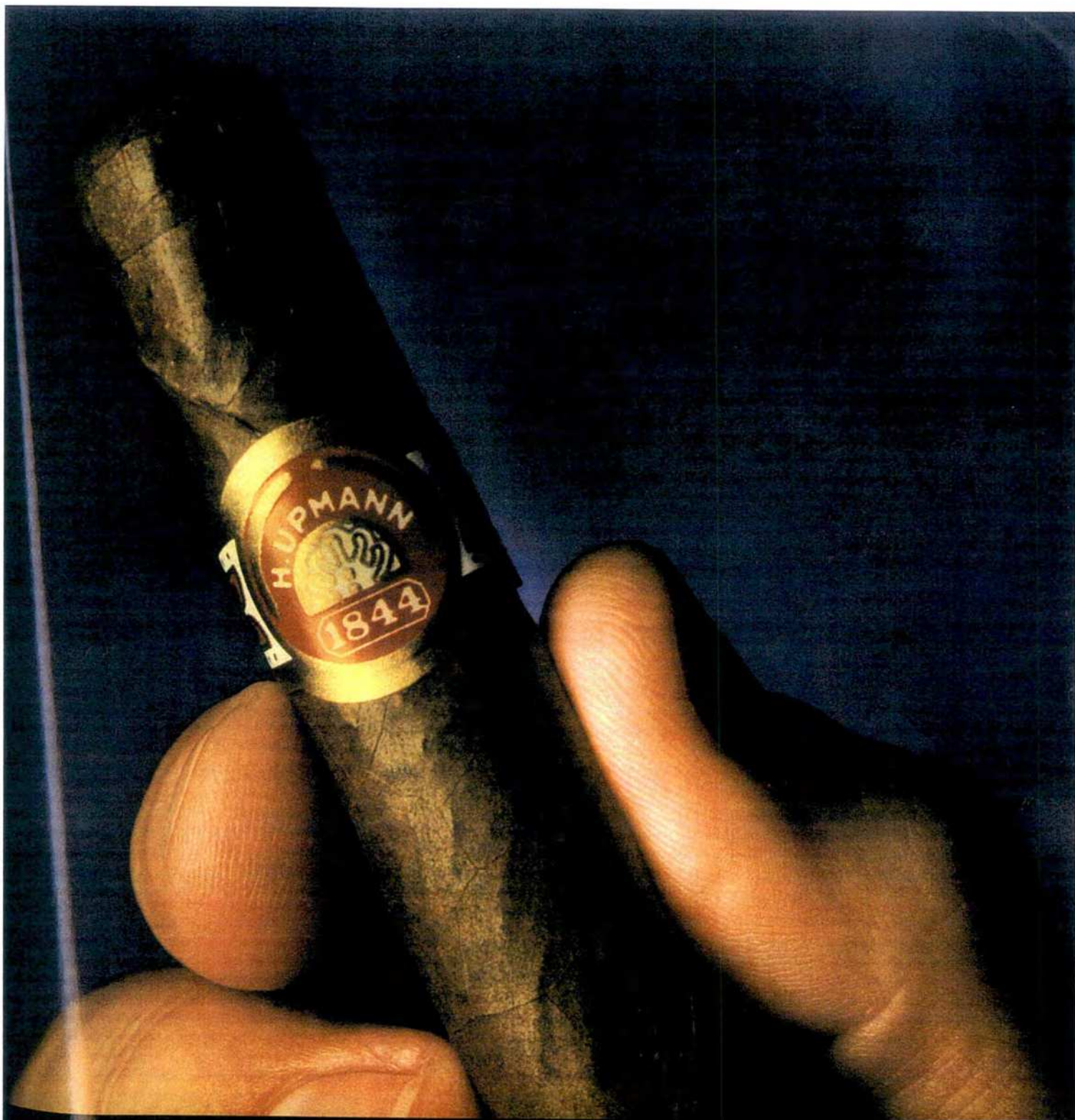
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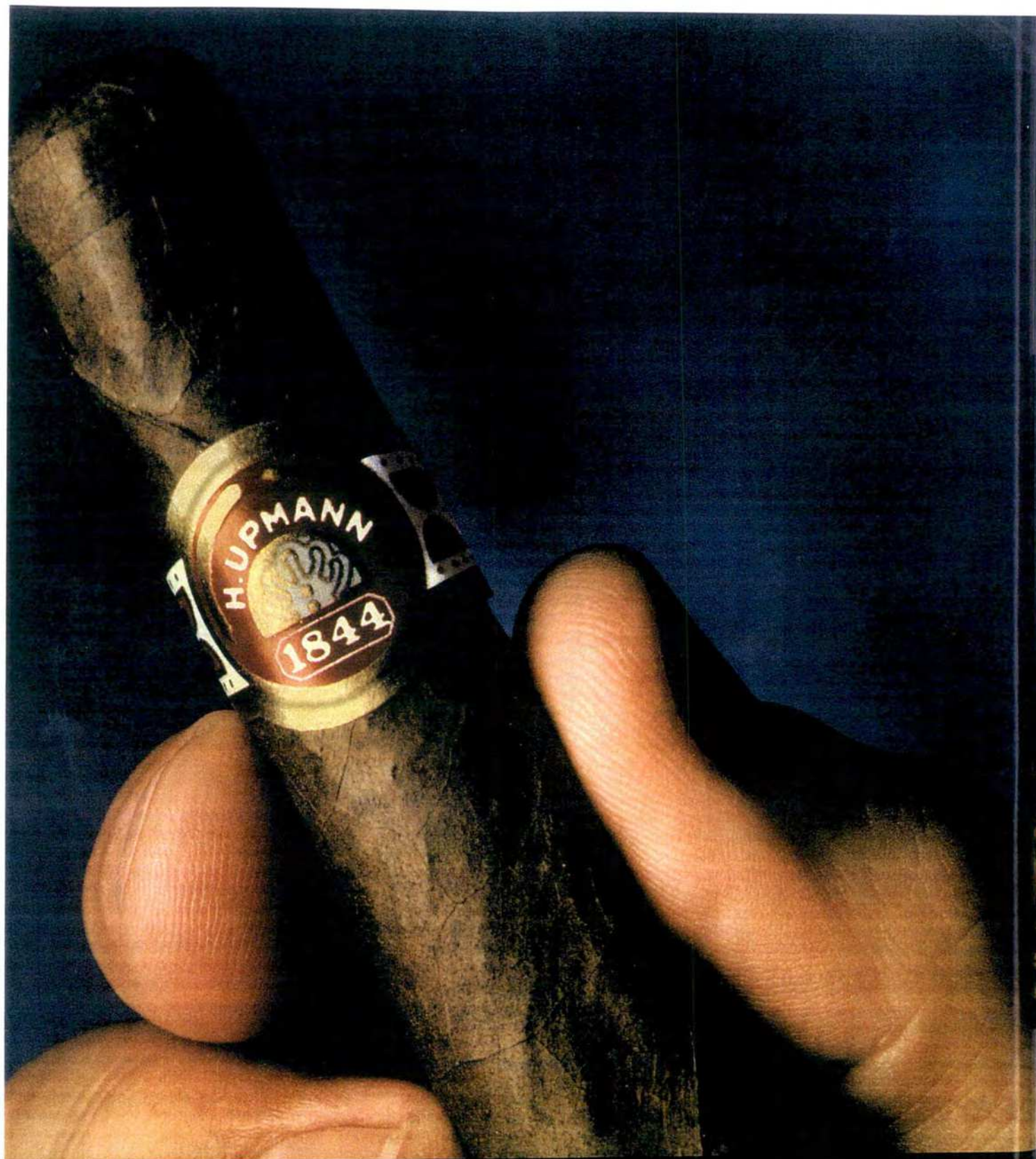
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Cancellation No. 92025859

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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v.	:
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GENERAL CIGAR CO., INC.	:
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Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 111-115 (SJ P.Ex. 154)

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

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GENERAL CIGAR CO., INC.	:
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Respondent.	:
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PARTY OFFERING: PETITIONER

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Filings: Dkt 122 (Decl, SJ P.Ex. 157)

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

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Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 124-26 (SJ P.Ex. 163)

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 124-26 (SJ P.Ex. 165)

REDACTED

REDACTED

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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PARTY OFFERING: PETITIONER

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Filings: Dkt 124-26 (SJ P.Ex. 169)

REDACTED

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Filings: Dkt 124-26 (SJ P.Ex. 170)

PHS DEPOSITION
EXHIBIT # 71
FOR ID 6/6/00 TRN

ALFRED DUNHILL

Established 1893



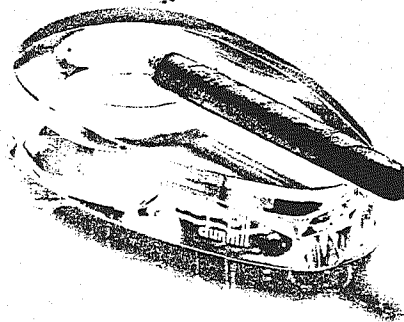
AFD 01863

WELCOME TO ALFRED DUNHILL—BY MAIL

If you've ever visited an Alfred Dunhill Humidor Room, you've undoubtedly enjoyed a broad selection of premium handmade cigars, all kept in pristine condition and ready for your smoking pleasure. Now, you can enjoy those same superlative cigars—and the service for which Alfred Dunhill is famous—without leaving your home or office. Just pick up the phone.

Our catalogue offers many of the world's best cigars. We store them under perfect conditions, ship them to you, and guarantee your satisfaction. We also offer a selective range of humidors, lighters, and other smokers' accessories. Each product supports Alfred Dunhill's maxim: "It must be useful; it must be beautiful; it must last; it must be the best of its kind."

We stand ready to serve you 24 hours a day, seven days a week. Please call us today.





c o h i b a

Rightful heir to the Cuban legend, this Dominican version of the Cohiba (the Taino Indian word for "tobacco") is rich, complex, and medium-bodied.

The wrapper is light Connecticut Shade. The box is mahogany. The cigars have no band, but *you* will know.

Filler: Dominican Republic, Mexico, Jamaica

Binder: Mexico

ROBUSTO 5 1/2" x 50, Box of 25 (ND0081) \$175

CORONA ESPECIAL 6 1/2" x 42, Box of 25 (ND0082) \$165

ESPLENDIDO 7" x 49, Box of 25 (ND0083) \$185

TO ORDER CALL 1-800-860-8362. FOR THE STORE NEAREST YOU, SEE BACK COVER.

5

AFD 01867

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
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Date registered: June 6, 1995

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Petitioner,	:
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GENERAL CIGAR CO., INC.	:
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Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 124-26 (SJ P.Ex. 171)

pk DEPOSITION
EXHIBIT # 72
FOR ID TRN
4/6/00

ALFRED DUNHILL

Smokers' Requisites

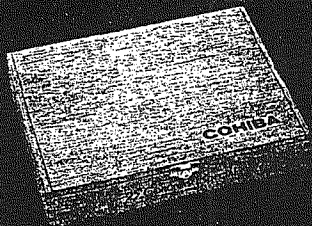


AFD 01908

Robusto
5 1/2" x 50
Box of 25

Corona Especial
6 1/2" x 42
Box of 25

Esplendido
7" x 49
Box of 25



COHIBA

The Dominican Cohiba is made exclusively for Alfred Dunhill. Today's cigar enthusiast need look no further than the Alfred Dunhill humidors for this celebrated range of Cuban origin. A more robust and full bodied blend of tobaccos are hand made with a lighter colored Connecticut wrapper and continue to age in a cedar box.

Filler: Dominican Republic, Mexico, Jamaica Binder: Mexico

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
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Petitioner,	:
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v.	:
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GENERAL CIGAR CO., INC.	:
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Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 124-26 (SJ P.Ex. 172)

Pfs DEPOSITION

EXHIBIT # 73

FOR ID TRN
6/17/00

ALFRED DUNHILL

Established 1893



AFD 01783



cohiba

Highly desirable with a slightly
elusive quality, this cigar is both hard
to define and difficult to keep in stock.

Its complex flavor may account for its clout.

Unbanded and available only through

Alfred Dunhill. Made in the Dominican Republic.

Taste: medium body, rich

Wrapper: Connecticut Shade

Filler: Dominican Republic, Mexico, Jamaica

Binder: Mexico

ROBUSTO, 5½" x 50, Box of 25 (ND0081) \$215

ESPLENDIDO, 7½" x 49, Box of 25 (ND0083) \$225

CORONA ESPECIAL, 6½" x 42, Box of 25 (ND0082) \$205

AFD 01800

eight

1 800 860-8362 24 HOURS, 7 DAYS

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
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Filings: Dkt 124-26 (SJ P.Ex. 175)

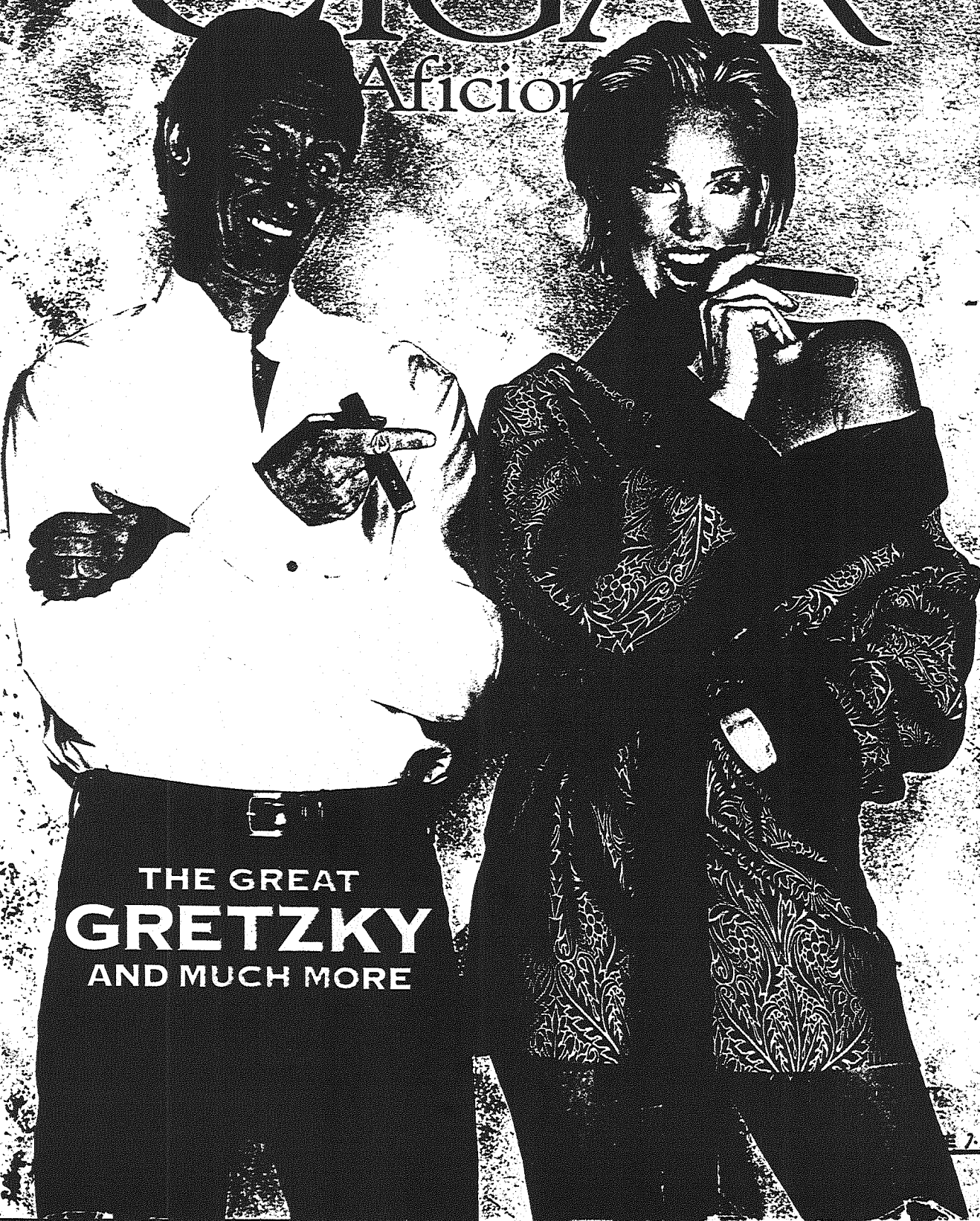
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TASTING: ODD SIZES

Over the years, *Cigar Aficionado's* tasting reports have excluded some cigars due to their shapes and sizes. In this test, we tasted 60 cigars that didn't fit into the usual categories.

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INTERVIEW: OSCAR BORUCHIN

Oscar Boruchin is owner of one of the largest cigar retailers in the United States, Mike's Cigars in Miami. He also operates a wholesale cigar business, and he is the driving force behind three top brands—Rancho Guepardos and SMOA Collection. In an extensive interview with Marvin R. Shanken, editor and publisher of *Cigar Aficionado*, Boruchin discusses the bright future of the cigar business.

96

THE EL PRODUCTO STORY

Once one of the leading cigar brands in America, this emerald-made smoke was formerly the flagship trademark that it was 40 years ago. But Consolidated Cigar is putting new energy into the cigar, which was George Burns' favorite.

COVER PHOTO BY MICHAEL FINE
PAID, PART OF ONE, GROWING AN
MAD + VIBELLANT + COMMUNICE
MOVED BY MANUELA AMALLAS



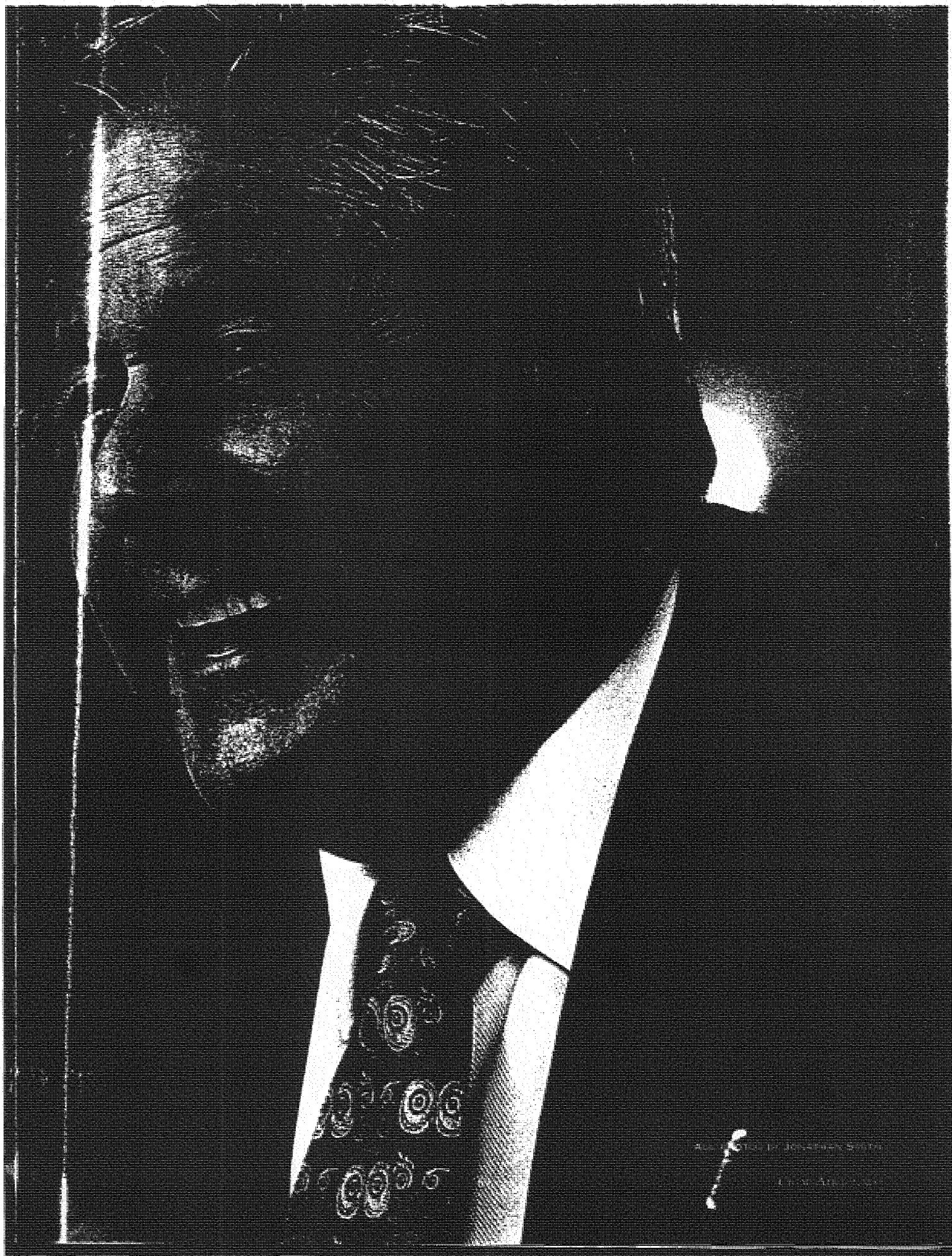
AN INTERVIEW WITH OSCAR BORUCHIN

OWNER OF LICENCIADOS AND 8-9-8 COLLECTION CIGARS
AND PROPRIETOR OF MIKE'S CIGARS, MIAMI BEACH

Oscar Boruchin owns some of the most sought-after brands in the United States today—Licenciados and the 8-9-8 Collection. Boruchin, 63, has built those brands over the last 15 years since he left a job with General Cigar Co. to become a part owner of Mike's Cigars, a cigar shop institution. Today, Boruchin is the sole proprietor of the business, which includes not only his brands, but a large wholesale and mail-order operation and a world-class retail store in the exclusive Bal Harbour area of Miami Beach.

▼ Boruchin's story is a true rags to riches tale. He fled Cuba after the family business was nationalized in 1960, arriving in Miami "virtually penniless." He began driving a cab, scrambling to support his family. His association with the cigar business began when a customer, a Cuban exile fresh off the plane, paid his cab fare with cigars, the only possession of value Fidel Castro allowed his countrymen to take out of the country.

▼ Boruchin has a rare vantage point in the cigar industry. He is a brand owner, a wholesale supplier of other retailers and a retailer. He has seen a small, profitable business grow into a \$22 million-plus enterprise in the space of four years. And, he's recently opened a spacious new store, confident that the cigar business will remain strong. Marvin R. Shanken, editor and publisher of CIGAR AFFAIRS, discussed all aspects of the cigar business with Boruchin in a wide-ranging interview.



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CA: In one year?

Boruchin: In one year.

CA: Of the \$22 million, how much is mail order, wholesale and retail?

Boruchin: At one time, wholesale was 80 percent, 85 percent of my business. Today, it's 50 percent. The reason in the change is that our retail business has increased so much that no matter how much more the national companies have been giving us, we don't have enough to wholesale it. We are selling directly to consumers. The store is tremendous. The mail-order is tremendous. So, wholesale and the retail side is about a 50-50 split.

CA: When you moved to your new store last year, you were very nervous because you went from a little hole in the wall to a good-sized store.

Boruchin: We went from 1,800 square feet to 16,500 square feet. And, instead of renting, we bought the building for over a million and a half dollars.

CA: It sounds like you did the right thing.

Boruchin: God knows. The business was already pointed in the right direction two years ago, though. And, it looked like we couldn't continue on Arthur Godfrey Road. I was convinced that I had to move in order to even maintain the business that I was doing.

CA: It would seem that maybe the biggest change from a retailer's or a wholesaler's point of view would be that in the '80s you could get as much of any brand as you wanted, and today you're dependent upon your relationships with the manufacturers. Is that true?

Boruchin: Yes. But we were lucky. We were in a position in the market when the CIGAR AFICIONADO revolution came that helped us cash in. We were probably the second-largest company in the United States in the cigar business. We were in the right place at the right time.

CA: Second to JR Tobacco.

Boruchin: Yes. By the way, we are very friendly competitors and personal friends. He [Lew Rothman, owner of JR Tobacco] is one of

my largest suppliers of cigars.

CA: Many cigar lovers are frustrated about how difficult it is to get their favorite cigars. They always ask, "How long will it be before we can get the established brands?" What do you think?

Boruchin: I think every manufacturer is making tremendous investments, from growing tobacco to training cigar makers to making more boxes. You know the shortage of boxes is one of the biggest problems, even though it's not mentioned very often. I would say that if the consumption continues to grow at this rate, [we may never catch up]. If at one point, the growth does slow down, the bigger manufacturers will catch up. I actually hope it never happens, even though some people

are frustrated. You know why? There're a lot of great products on the market, and a lot of new products are coming to the market. Some of them are great, and you can still find good cigars. When I left my place in Miami, I had a good supply of almost every major brand. That doesn't mean that two weeks from now we might not be out of everything.

CA: You haven't been able to build up inventories?

Boruchin: Not on the major brands.

CA: Have you ever been able to keep large inventories for an extended period?

Boruchin: Not really. We always turned over stock, even though we keep a large inventory because of the nature of our business. But we kept reordering practically every week. The merchandise used to be available. What is not available anymore is deals. Everybody used to wheel and deal at that time to compete. And merchandise could be bought cheaper. It's been one of our main concerns because we were always consumer-oriented. But we are a consumer company and we were always trying to give the consumer the best deal available. It's been tougher now. We are not able to offer the consumer the same business that we did before. Merchandise is so short. It's impossible to get the deals that we used to get before.

CA: Let's change the subject. You are Cuban-American, living in Miami and in the cigar business. Doesn't that put you at the center of a hurricane?

Boruchin: Definitely. When you live in south Florida and you have a million Cubans, the subject of Cuba is unavoidable. It's subsiding a little now. The conservatism of the Cubans of 10, 15 years ago is not that much anymore. For me, a Cuban cigar is the best cigar in the world. I don't care who gets mad. But I don't sell them, and I fight anyone who does because today, Cuban cigars are my biggest competitor. I'm located in an area where most of my customers are affluent people. They all have access to Cuban cigars. Sometimes they are counterfeit, because the popularity of the Cuban cigar has brought counterfeits into the picture. But whether they are real or

Is no word for

ahead of them. I won't see the end of this in my lifetime. Of course, everything in life reaches a ceiling. This won't be an exception. But the cigar business is going to be a tremendous business for a long time to come. I only see one danger. That's government restrictions. Before, nobody cared, but as we grow, as the industry grows, our enemies are going to grow. So, we are going to have to face in the near future a barrage of tremendous bad publicity.

CA: Hasn't that already started?

Boruchin: Yes.

CA: There's so much disinformation about cigars; using cigarette studies to compare smoking habits of cigar smokers is one popular example. How should we fight it?

Boruchin: There's one thing they can't fight. I smoke about 10 or 12 cigars a week. I could go a month without smoking, without any problem. Cigars are not addictive. Nobody can say: "I can't live without cigars." You can be three days without smoking. You can pick up a cigar three days from now and smoke. So, the addiction that they criticize for cigarettes doesn't exist with cigars.

And nobody inhales cigars; if they do it's a very small percentage. The danger of getting sick from cigar smoking is very small. They are going to have a tough time convincing the intelligent consumer of today who smokes in moderation.

CA: Do you feel that the proliferation of all the new brands on the market, some of which are not very well made or quality cigars, presents a potential problem for the industry?

Boruchin: Yes, even though I think this phase will pass. For example, look at the explosion in new tobacco stores. There're not enough cigars to go around for them. A lot of the cigars are just maybe being spread too thin. And some of those new cigars are coming in at extravagant prices. But if you look at the national brands—H. Upmann, Don Diego, Macanudo, Partagas, Bauza, Licenciados, Astral, the regular brands—they are still selling for below \$5. Now you get a new cigar maker that bought tobacco last week, stole three cigar rollers and makes a cigar trying to sell it for \$8 and \$10. They are just ripping off the public. That's going to disappear.

CA: How would you describe, or how would you rate, the quality of these new brands?

Boruchin: Some of them are great. Some of them are garbage. Some of them are garbage in, garbage out, because they don't get the right tobacco, they don't get the right cigar makers, but they still come in to make a killing. This is not the people like us. Many people in the cigar business have been in it for 50 years. But these others just come in to get rich quick. Either they are going to try to go into the stock market and make a killing in the stock market or they are going to try to sell bad product. There is a scarcity of good product in the stores, which allows these newcomers to come in. These retailers need merchandise to sell. Eventually people will realize they are paying a tremendous amount of money for cigars that aren't worth it.

CA: You mentioned the problem with counterfeit Cubans. Is that a new phenomenon?



Boruchin: That never happened five years ago. This is happening since the Cuban cigars have become very popular, together with the cigar industry. Everybody sees it as an opportunity to make money.

CA: In terms of the counterfeit cigars in Miami, are they made in Cuba or are they knock-offs from other countries?

Boruchin: Some come from Cuba. They've been bought on the street there. But the majority are made in the Dominican Republic and Honduras.

CA: And the consumer doesn't know?

Boruchin: Don't forget that most of the young smokers have not been exposed to many Cuban cigars. They buy a box of Cohibas and they smoke a product that is not that great, but they really don't identify it that well. Like maybe you or I could identify it as a fake.

CA: Then they say a Cuban cigar is not so good.

Boruchin: But they like to go around with the band on. What they are trying to do is impress people with the fact they are smoking a Cohiba. Taste means very little. It's just showing off to their friends on Saturday night that they are smoking a Cohiba. They choose by the band.

CA: I get asked all the time by people to tell them whether the cigars are real or not. One guy swore his came from Cuba, and I asked him if they'd been bought in a store and he said, no, right out front. I knew immediately they were fakes. It seems the problem is out of control.

Boruchin: Every other Cuban cigar sold in Miami today is counterfeit. Especially the Cohiba and Montecristo labels. Those are the ones that you see the most. I haven't seen a counterfeit Bolivar, or some of the other brands that are not that popular. I have heard stories of customers of mine that have been hustled by clerks in stores in Cuba, like, "Why do you want to pay \$250 [per box] for this cigar? I can get it to you for \$70, \$80 tonight, if you meet me at such and such a place." Because it's a store clerk offering this deal, people think they must be stolen from the store and are real. But that's not the case.

The Cubans are very ingenious. They always were and that's the

eight, nine, 10 hours a day.

CA: Why is it that whenever I go there, he gives me white gym socks?

Boruchin: You know Mike started out on Orchard Street in New York and he had a pushcart, and he was always there selling socks. He always says that he blesses the memory of [then-New York City Mayor Fiorello] La Guardia, because La Guardia kicked him out of Orchard Street with the pushcart and he had to move to Florida. And he started the cigar business. So, the love of his life has always been socks. So as not to forget that, he keeps a little stock of socks in his desk and everybody that he likes that comes to the store walks out with a pair of socks.

CA: Your store is one of the most beautiful stores in America. Do you have any plans to expand that one store or to add other stores? Either in Florida or elsewhere?

Boruchin: We have 6,500 square feet of retail store. The retail area is adequate. And even if we pile up more stuff in the store, it is adequate. Where we run out of space is in the warehouse, the wholesale and other department operations. We are looking into expanding that area. We are looking within the neighborhood where we are located right now. I have no plans to expand the store. We walk a thin line between being manufacturer, distributor and retailer. If I open up a lot of my cigar stores around the country, I would be competing with my friends. We are not planning to enlarge the retail operation.

CA: What do today's smokers buy? What are they smoking? What are the cigars that are in big demand in terms of flavor, strength, size, color, origin? What is the cigar that is in greatest demand?

Boruchin: The trend today is toward a strong cigar. Size favorites are robustos, a 4 1/2 or 5 [inch] x 50 ring gauge or a 5 1/2 x 50 ring gauge. On many occasions, you can't smoke a large cigar unless you find a friendly place or in your house. Most of the places you want a shorter smoke because you want to finish and you don't want to throw it away. When a new smoker walks in, the preference is for a mild cigar. But he graduates to a medium to strong cigar very quickly. I see them come in the first day and buy cigars. But then you see them a month later and they already are looking at a little stronger cigar, such as a Partagas, a Fuente, a Bauza. At the beginning, they all feel they want to start with a mild cigar. But it is surprising how they move pretty quickly to a strong smoke.

CA: How much do they want to spend on a cigar?

Boruchin: Price is no object. When you see that some of the retailers come to my place and pay full price and then go out to sell it at a tremendous profit, it means people are going in those places and buying cigars for \$10, \$9, \$8 apiece. I think availability is the main issue today. If you have the product, you have no problem charging whatever you want.

CA: In south Florida, are there today many places where you can go and enjoy a nice meal and have a cigar afterwards? Or are there still a lot of problems in terms of having a place to eat and then smoke?

Boruchin: You still have a lot of problems. There're not too many places that you can go openly and light up a cigar where you're

lot of clubs are opening up, even though I don't count clubs. I like restaurants, where you can sit down and enjoy a cigar. One of them is The Forge, especially since they opened up the Cuba Club next door. But they keep humidors with cigars in both places. And you can light up a cigar any place in The Forge. It might be another half dozen restaurants like that. But that's all.

CA: Do you see any local legislation coming along to restrict cigar smoking in south Florida?

Boruchin: They have tried. But Florida is a big producer of cigars, and we've been able to stop those efforts before. However, I won't be surprised if it will happen in the future. Not too long ago [the state] tried to pass a tax on cigars and it was defeated. They just passed a tax on tobacco, but they never touch the cigars. In Tampa and Miami, a lot of people still make a living in the industry.

CA: You once told me a story about the brand name Cohiba and the trademark. Could you tell it again?

Boruchin: In the '70s, a friend of mine, Bernardo Benes, was retained by the Carter Administration. Bernardo had been a friend of Fidel in Havana University and at the beginning of the Revolution, he was a subsecretary in the Treasury Department. He left Cuba because of ideological differences. But he is not a

"At one time,
the cigar industry was like
a big family. It still is."

conservative Cuban. He worked closely with Claude Pepper when he was a congressman, and he was on retainer with the State Department during the Carter Administration. He used to go and see Castro often, always on different missions that didn't really come out in the press. One time he came back from Cuba and he gave me a little pack with four or five lanceros. And he told me these are cigars that Fidel smokes that he gives to people that visit with him. The cigar is not a commercial brand. At that time, they didn't ever dream that they were going to make it commercial. I was working for General Cigar at that time and, loyal employee that I was, I sent the bands and a couple of cigars to Edgar Cullman Jr. And I told the Cullmans the story that I just told you. And General went ahead and registered the brand. And sure enough, nobody had an intent to register it then because the brand wasn't even commercially available. So, General Cigar owns the brand in the United States.

CA: You've been in the cigar trade for 36 years. Do you ever look in the mirror and pinch yourself?

Boruchin: Yes. But, I can't tell you the number of times that I considered leaving the business. The only problem with cigars is that it gets into your skin. The cigar business, you just couldn't leave it. You get to love the business so much and the people in the business. I bet you that there's not another industry that has the friendships that I have. I say that because lately, like any industry that grows so much, it attracts a lot of

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 124-26 (SJ P.Ex. 182)

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

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For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 124-26 (SJ P.Ex. 185)

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 124-26 (SJ P.Ex. 193)

REDACTED

REDACTED

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 124-26 (SJ P.Ex. 196)

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt 135 (SJ P.Ex. 205-208)

REDACTED

REDACTED

REDACTED

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